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June 29, 2023
Report 2022-107

FACT SHEET

Grant Parks *California State Auditor*

CONTACT: *Communications Office* | *(916) 445-0255*

Native American Graves Protection and Repatriation Act

The California State University Must Do More to Ensure the Timely Return of Native American Remains and Cultural Items to Tribes

Background

The 1990 federal Native American Graves Protection and Repatriation Act (NAGPRA) protected Native American gravesites and created a process by which federally recognized tribes can request from government agencies and museums the return of their human remains and cultural items (remains and cultural items). In 2001, California enacted CalNAGPRA, which provided a mechanism for California tribes that do not have federal recognition to submit repatriation claims to agencies such as the California State University (CSU). The Legislature amended CalNAGPRA in 2020 to require campuses to review their collections of remains and cultural items, to consult with tribes before performing this review, and to report their collections to the Native American Heritage Commission.

Key Recommendations

To ensure the CSU makes adequate progress in meeting NAGPRA and CalNAGPRA's requirements, the Legislature should require the Chancellor's Office to annually report to the Legislature the CSU's system wide progress in repatriating its collections.

To ensure that campuses have identified all of the remains and cultural items in their NAGPRA collections and consistently follow NAGPRA and CalNAGPRA's requirements, the Chancellor's Office should do the following:

- Monitor campus efforts to review their collections and require the completion of these reviews by December 2024.
- Ensure that campuses properly consult with tribes by engaging in meaningful, timely discussion in a manner respectful of tribal sovereignty regarding protocols for handling and identifying remains and cultural items.
- Issue a systemwide NAGPRA policy establishing consistent repatriation processes and training requirements, in consultation with California tribes and the Native American Heritage Commission.
- Require campuses with more than 100 sets of remains or cultural items to have full-time, experienced repatriation coordinators by June 2024.

Key Findings

- The CSU's campuses have not always complied with provisions in NAGPRA and CalNAGPRA.
  - » 12 of the 21 campuses with collections have not finished the reviews required by NAGPRA, and 16 campuses have little or no repatriation activity.
  - » Two campuses returned remains to tribes without following NAGPRA's requirements for notifying other tribes, and six campuses violated CalNAGPRA by handling collections without first consulting with tribes.
- Campuses lack the policies, funding, and staff to support repatriation.
  - » The four campuses we visited lack a comprehensive policy that incorporates best practices in areas such as collections management and working with tribes to advance repatriation.
  - » Several campuses reported that they do not have sufficient funding or staff to meet their responsibilities under NAGPRA and CalNAGPRA.
- The Chancellor's Office has not provided the guidance and oversight needed to ensure campuses prioritize NAGPRA.
  - » The Chancellor's Office has not required campuses to prioritize funding NAGPRA or estimate their funding needs, nor has it provided funding specifically to support NAGPRA.
  - » The Chancellor's Office has not created a system wide NAGPRA policy or implemented a strong administrative structure for overseeing campus NAGPRA activity.
  - » The Chancellor's Office has taken recent steps to provide more leadership, such as hiring a system wide project manager and taking initial steps to draft a system wide policy, but must do more to ensure the CSU prioritizes NAGPRA and CalNAGPRA.

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CALIFORNIA STATE AUDITOR
621 Capitol Mall, Suite 1200 | Sacramento | CA | 95814

916.445.0255 | TTY **916.445.0033**

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June 29, 2023
2022-107

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As directed by the Joint Legislative Audit Committee, my office conducted an audit of the California State University's (CSU) compliance with the 1990 federal Native American Graves Protection and Repatriation Act (NAGPRA) and its 2001 California counterpart, CalNAGPRA. These acts establish requirements for the repatriation, or return, of Native American human remains and cultural items to tribes by government agencies and museums—which include the CSU's campuses—that maintain collections of such items. This report concludes that although the CSU's Office of the Chancellor (Chancellor's Office) has taken some limited steps recently to support the campuses' repatriation efforts, it must take additional action to ensure that campuses prioritize complying with NAGPRA and CalNAGPRA.

We surveyed all 23 CSU campuses and conducted on-site reviews at four—Chico State University, Sacramento State University, San Diego State University, and San José State University. We found that of the 21 campuses with NAGPRA collections, more than half have not repatriated any remains or cultural items to tribes and that two campuses that returned remains or cultural items did not follow NAGPRA requirements when doing so. More than half of these 21 campuses do not yet know the extent of their collections of remains and cultural items, despite federal law requiring them to do so by late 1995. In part because campuses have not prioritized NAGPRA, they generally lack the policies, funding, and staffing necessary to follow the law and repatriate their collections. Factors such as these have contributed to the CSU system making little progress in the timely return of human remains and cultural items to tribes, repatriating just 6 percent of its collections to tribes to date.

The Chancellor's Office has not provided the guidance and oversight necessary for campuses to comply with NAGPRA and CalNAGPRA. For example, it has not issued a systemwide policy to provide guidance to campuses, nor has it ensured that campuses prioritize funding for their repatriation activity. Additionally, the Chancellor's Office lacks mechanisms—such as a systemwide NAGPRA committee—to oversee campus repatriation efforts. Although the Chancellor's Office has recently begun planning such efforts, it must finalize them and provide additional guidance to ensure that the CSU repatriates its collections of Native American remains and cultural items as required by law and in a timely manner.

Respectfully submitted,

GRANT PARKS
California State Auditor

Selected Abbreviations Used in This Report

CalNAGPRA	California Native American Graves Protection and Repatriation Act
CSU	California State University
NAGPRA	Native American Graves Protection and Repatriation Act
NAHC	Native American Heritage Commission
UC	University of California

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Summary

Results in Brief

The 1990 federal Native American Graves Protection and Repatriation Act (NAGPRA) and its 2001 California counterpart (CalNAGPRA) establish requirements for the protection of Native American graves and the treatment and return of Native American human remains and cultural items (remains and cultural items) from the collections of government agencies and museums. The California State University system (CSU) has historically maintained a significant collection of hundreds of thousands of remains and cultural items. NAGPRA prescribes a process for entities with such collections to *repatriate*, or return, remains and cultural items to tribes that can demonstrate a relationship to them. Although the CSU's Office of the Chancellor (Chancellor's Office) is the primary entity responsible for ensuring the success of the CSU's academic and administrative functions, it has delegated accountability and oversight of NAGPRA and CalNAGPRA activities to the individual campuses, contributing to the CSU campuses making little progress in returning its collections to tribes. As a result of its limited action, the CSU risks financial penalties for not following key requirements of NAGPRA and CalNAGPRA as well as damage to its institutional reputation.

Although NAGPRA has been in effect for more than 30 years, more than half of the CSU campuses with NAGPRA collections have not returned any remains or cultural items to tribes. To determine campus efforts to comply with NAGPRA and CalNAGPRA, we surveyed all 23 CSU campuses and conducted on-site reviews at four—Chico State University (Chico), Sacramento State University (Sacramento), San Diego State University (San Diego), and San José State University (San José). We found more than half of the 21 campuses with NAGPRA collections do not yet know the extent of their collections of remains and cultural items, despite federal law requiring them to have completed such inventories by 1995.[1] Further, most campuses undertaking some repatriation activity have returned only a very small portion of their NAGPRA collections to tribes; in fact, the system as a whole has repatriated only 6 percent of its collections. Moreover, two campuses that did return some remains and cultural items to tribes did not follow NAGPRA's required processes for doing so. For example, neither campus posted notices in the *Federal Register* about the intended transfer, depriving other tribes of the ability to file claims and thus ensure that the remains were returned to the appropriate tribe.

In part because campuses have not prioritized compliance with NAGPRA and CalNAGPRA, the campuses generally lack the policies, funding, and staffing necessary to follow the law and successfully repatriate their collections. For example, none of the four campuses we visited has established a comprehensive repatriation policy. Instead, each campus relies on draft policies or department-specific policies that do not consistently incorporate best practices in areas such as the storage and inventory management of collections and transparency of the repatriation process.

[1] Although the CSU system includes 23 campuses, two campuses—California State University Maritime Academy and California State University San Marcos—reported that they do not have collections subject to NAGPRA.

Ten of the campuses we surveyed with collections identified a lack of funding as a key challenge in completing repatriations in a timely manner; this lack of funding is a further indication that the campuses are not adequately prioritizing repatriation. Finally, most campuses do not have a full-time repatriation coordinator position dedicated to working with tribes and advancing repatriation. Rather, campuses designate faculty, staff, or campus administrators to carry out these responsibilities part-time, in addition to other jobs that they hold on campus.

Although the Chancellor's Office is best positioned to provide accountability and oversight of the campuses' implementation of NAGPRA and CalNAGPRA, it has only recently begun taking steps to do so. Since the 1990s, the Chancellor's Office has maintained that the campuses with NAGPRA collections are responsible for ensuring their own compliance with NAGPRA. Accordingly, the Chancellor's Office has not issued a systemwide NAGPRA policy to ensure that campuses have the guidance necessary to appropriately and consistently follow applicable requirements, although it stated in the course of this audit that it intends to create one. Further, the Chancellor's Office has neither ensured that campuses adequately prioritize funding their repatriation activity nor asked campuses for estimates of their funding needs. It has not established a strong systemwide administrative structure to direct campus repatriation activities. Finally, it lacks a mechanism—such as a systemwide NAGPRA committee or a process for reviewing campus reports—for overseeing campus repatriation efforts.

Although the Chancellor's Office has indicated that it would like to increase its guidance and oversight related to NAGPRA and CalNAGPRA, it explained that significant leadership changes in its administration have paused its progress, and it suggested that new leadership will enable it to resume progress. The Chancellor's Office plans to wait until the appointment of a new chancellor, which it anticipates occurring in July 2023, before taking additional steps to increase its oversight of campus repatriation activity, such as finalizing a systemwide NAGPRA policy and establishing a systemwide oversight committee.

Because of the CSU's historical lack of progress in complying with NAGPRA, we believe the Chancellor's Office should take several steps to ensure that campuses prioritize NAGPRA and CalNAGPRA compliance and establish uniform processes and practices for complying with the laws. The Standing Orders of the Board of Trustees delegate authority from the Board of Trustees to the chancellor for the appropriate functioning of the CSU system. As the CSU's chief executive officer, the chancellor, as authorized by the Board of Trustees, ensures the successful implementation of the CSU's academic and administrative functions. Like other agency heads, the chancellor is responsible for the establishment and maintenance of systems of internal control, such as those designed to ensure that campuses comply with requirements in NAGPRA and CalNAGPRA. Agency heads are also responsible for effective and objective ongoing monitoring of the internal controls within their state agencies, so the Chancellor's Office, which is led by the chancellor and has administrative departments that oversee every aspect of the CSU system, is uniquely situated to coordinate and standardize CSU campus NAGPRA practices. Accordingly, we direct all but one of our recommendations to the Chancellor's Office, rather than to individual campuses.

Recommendations

The following are the recommendations we made as a result of our audit. Descriptions of the findings and conclusions that led to these recommendations can be found in the chapters of this report.

Legislature

To ensure that the CSU makes adequate progress in meeting NAGPRA and CalNAGPRA's requirements, the Legislature should require the Chancellor's Office to annually report to the Legislature the CSU's systemwide progress in reviewing its collections, consulting with tribes, and repatriating human remains and cultural items.

Chancellor's Office

To ensure that campuses have identified all of the remains and cultural items in their NAGPRA collections, the Chancellor's Office should do the following:

- Monitor campus efforts to review their collections and require the completion of their inventories by December 2024.
- Ensure that campuses properly consult with tribes by engaging in meaningful, timely discussion in a manner respectful of tribal sovereignty regarding protocols for handling and identifying remains and cultural items.

To provide campuses with the guidance and best practices necessary for effectively complying with NAGPRA and CalNAGPRA, the Chancellor's Office should issue a systemwide NAGPRA policy establishing consistent repatriation processes and training requirements, in consultation with California tribes and the Native American Heritage Commission.

To ensure that it adequately oversees campus repatriation activity, the Chancellor's Office should establish a systemwide NAGPRA oversight committee by December 2023. By this same date, the Chancellor's Office should implement a process for campuses to periodically report their repatriation activity to the systemwide oversight committee. Further, it should require that campuses with more than 100 remains and cultural items also establish NAGPRA committees.

To ensure that campuses proactively pursue timely repatriation, the Chancellor's Office should require campuses with more than 100 sets of remains or cultural items to have full-time, experienced repatriation coordinators by June 2024.

To ensure that repatriation is a systemwide priority and that campuses have access to clear and consistent leadership related to NAGPRA and CalNAGPRA, the Chancellor's Office should, by December 2023, formalize its administrative structure, such as by assigning a position within its office the responsibility of directly overseeing the work of the systemwide CalNAGPRA project manager.

To ensure that campuses have the funding necessary to comply with NAGPRA and CalNAGPRA, the Chancellor's Office should do the following:

- Require each campus with NAGPRA collections to identify and estimate, by January 2024, the funding and other resources they need to complete repatriation in an appropriate and timely manner.

- After evaluating the reasonableness of campuses' estimates, either identify and provide the required funding from existing systemwide or campus resources or seek additional funding from the Legislature, to ensure that campuses have adequate funding to support their NAGPRA and CalNAGPRA activities.

Agency Comments

The Chancellor's Office agreed with our recommendations and stated that it would take steps to finalize and implement a systemwide NAGPRA policy, which it indicated will establish appropriate oversight of campus repatriation activity.

Introduction

Background

The U.S. Congress passed the Native American Graves Protection and Repatriation Act (NAGPRA) in 1990 to protect Native American gravesites and to create a process by which Native American tribes with ancestral, cultural, or geographic links to human remains and cultural items (remains and cultural items) can request their return from government agencies and museums. The entities' control of these remains and cultural items has often stemmed from past archeological research on lands historically occupied by Native American tribes. In other instances, remains and cultural items have been excavated during construction projects.[2] The text box describes the types of remains and cultural items and actions that NAGPRA covers.

Summary of Key NAGPRA Terms

Types of remains and cultural items subject to NAGPRA:

- Human remains—Physical remains, including bones, of people of Native American ancestry.
- Funerary objects—Objects such as stones and beads placed with or near remains as part of a death rite or ceremony.
- Sacred objects and objects of cultural patrimony—Ceremonial objects or items such as baskets that have ongoing cultural importance to tribes.

Types of actions in the repatriation process:

- Affiliation—Identifying remains or cultural items as belonging to a federally recognized tribe.
- Repatriation—Returning remains or cultural items to the affiliated tribe.

Source: Federal law.

The campuses of the California State University (CSU) system have historically had hundreds of thousands of remains and cultural items subject to NAGPRA. The CSU Office of the Chancellor (Chancellor's Office), to which the CSU system Board of Trustees has delegated authority, decided in 1990 to delegate to the individual CSU campus presidents the responsibility for developing and implementing campus policy regarding collections of Native American remains and cultural items. The Chancellor's Office indicated in 1996 that because NAGPRA applied to agencies—such as the campuses—with collections, the Chancellor's Office was not responsible for individual campus compliance with NAGPRA.

NAGPRA Established a Process for Entities to Affiliate and Repatriate Remains and Cultural Objects

NAGPRA generally required entities such as universities that had remains and cultural items to complete an inventory of their collections by late 1995.[3] The four CSU campuses we visited—Chico State University (Chico), Sacramento State University (Sacramento), San Diego State Unversity (San Diego), and San José State University (San José)—have

[2] Since 2015 state and local public agencies that have principal responsibility over certain projects subject to the California Environmental Quality Act must follow certain requirements when they discover Native American sites and cultural items. Specifically, they are required to avoid damaging tribal cultural resources when feasible and to consult with Native American tribes located in the area of a project about measures to preserve or mitigate impacts of the project. This approach limits the addition of new items to collections of remains and cultural items at agencies.

[3] Completion of certain types of inventories was required by late 1993.

generally maintained their collections in on-campus museums or repositories that are not open to the public. To complete their NAGPRA-required inventory, these CSU campuses were responsible for consulting with all federally recognized tribes that might have cultural or geographic links to the remains or cultural items the campuses controlled. NAGPRA applies to tribes that are recognized by the U.S. Department of the Interior, which is responsible for identifying tribes that are eligible to receive services from the federal government.[4]

To comply with its required deadlines, NAGPRA required that each campus evaluate the information from this consultation, along with biological, archeological, anthropological, geographic, kinship, linguistic, folklore, and historical evidence. Based on this evaluation, the campus was to determine whether it could reasonably trace a relationship between the remains or cultural items within its collection and a specific tribe, a process known as *affiliation*. The campus could also determine that multiple tribes were affiliated with the same remains and cultural items in its collection, since multiple tribes can have overlapping geographical territories from which the remains and cultural items were excavated. Federal regulations require a campus to base its determination of affiliation on a preponderance of the evidence, meaning that the remains and cultural items are more likely than not affiliated with the tribe or tribes in question. After completing its inventory, the campus was required to send information from the inventory to those tribes for which it had established affiliation.

Each campus was also required to report its inventory to the national NAGPRA program. The National Park Service, which is a bureau of the U.S. Department of the Interior, administers that program. In addition to its other duties, the national NAGPRA program is responsible for drafting regulations to implement NAGPRA, administering grants to museums and tribes for fulfilling NAGPRA's requirements, assisting excavations that discover remains or cultural items on federal or tribal land, and maintaining a database of NAGPRA inventories.

Major Repatriation Eligibility Requirements

To be eligible for repatriation under NAGPRA, remains or cultural items claimed by a tribe must meet the following requirements:

- Be under the legal control of the agency from which the tribe is requesting return of the remains or cultural items.
- Not have been obtained from a person that the tribe had authorized to voluntarily give or sell the remains or cultural items.
- If human remains, be proven to be a person of Native American ancestry. Cultural items must have a proven cultural affiliation.

Source: Federal law.

A federally recognized tribe may obtain the return of its ancestors' remains and cultural items by submitting a repatriation claim for the affiliated items. The text box summarizes the major repatriation eligibility requirements. Under federal law, after a campus affiliates remains or cultural items with a federally recognized tribe or tribes during the preparation of its inventory, the campus must then submit a notice to the NAGPRA program about the affiliated remains and cultural items for publication in the *Federal Register*. Other tribes then have 30 days from the date of publication in the *Federal Register* to contest the campus's affiliation determination. If no other tribe contests the affiliation, the campus is required to return the remains or cultural items within 90 days of receiving the affiliated tribe's repatriation claim.

[4] NAGPRA also applies to Native Hawaiian organizations; however, our report focuses on Native American tribes.

If multiple affiliated tribes submit repatriation claims for the same remains and cultural items, the campus may retain the items in question until the parties agree upon the appropriate recipient or until the dispute is otherwise resolved. For example, the campus could return items to the tribes under a joint repatriation.

In some instances, campuses did not affiliate remains or cultural items with a tribe during their inventories. Tribes can request additional information from the campuses to learn about their collections and determine whether they want to request affiliation with remains and cultural items. The timely affiliation of remains and cultural items is critical because it allows tribes to move forward with the repatriation process after filing a claim. When campuses return remains and cultural items through repatriation, tribes may choose to rebury the remains, since some tribes believe that their ancestors' spiritual journeys have been disrupted by their exhumation and that reinternment allows them to rest.

CalNAGPRA Creates Additional Opportunities for Tribes to Obtain Remains and Cultural Items and Increases Oversight of Campuses

Enacted in 2001, CalNAGPRA provides a mechanism for California tribes without federal recognition to submit repatriation claims to agencies and museums, including university campuses. Thus CalNAGPRA covers all California tribes, including both federally recognized tribes and those tribes not so recognized. Some California tribes are not currently federally recognized in part because the federal government cancelled its recognition of those tribes beginning in the 1940s, although some have since regained federal recognition. According to a publication on the National Park Service's website, the government decided after World War II to forcibly assimilate Native Americans into mainstream society by terminating the federal recognition of tribes and the federal government's accompanying obligations to them and by relocating Native Americans from rural reservation communities to urban areas.

The Legislature amended CalNAGPRA in 2020. As Table 1 shows, the 2020 amendments to CalNAGPRA improved the repatriation process: it expanded the types of evidence allowed for establishing affiliation and also expanded the eligibility for tribes without federal recognition to use CalNAGPRA; only four California tribes without federal recognition had qualified under the previous requirements. This amendment also required each campus with a collection subject to CalNAGPRA to complete an inventory or to update its preliminary inventory of all its California Native American human remains and certain funerary objects on or before January 2022. Similarly, the amendment required each campus with possession of or control over other types of cultural items, such as sacred objects, to create a preliminary summary of these items by the same deadline. Under the 2020 amendment, campuses had until April 1, 2022, to submit their preliminary inventory and summary (inventory) to the Native American Heritage Commission (NAHC), a state entity that identifies and catalogs Native American cultural resources.

Table 1
The Legislature Made Key Changes to CalNAGPRA in 2020 That Elevate the Tribal Perspective

CALNAGPRA BEFORE THE 2020 AMENDMENT	CALNAGPRA AFTER THE 2020 AMENDMENT
The intent of the State is to apply its repatriation policy so as to be consistent with federal NAGPRA.	The intent of the State is to apply its repatriation policy so as to be consistent with federal NAGPRA and resolve all ambiguities in the law in favor of California tribes.
"Tribal traditional knowledge" was not defined.	Defines tribal traditional knowledge as knowledge systems embedded and safeguarded in the traditional culture of California tribes.
Tribal traditional knowledge was not used as evidence to establish affiliation.	Tribal traditional knowledge alone may be sufficient evidence for establishing affiliation.
Following consultation, agencies must complete an inventory of remains and cultural items.	Agencies must consult with California tribes at multiple stages of the inventory process, and inventories become final upon the concurrence of affected tribes.

Source: State law.

The amendment to CalNAGPRA required each campus to consult with tribes during the inventory process to understand the tribes' preferences about how the campus should conduct its inventory activities. For example, a tribe might wish to limit handling and photography when a campus performs inventory activities on the remains of the tribe's ancestors. The 2020 amendment also required campuses to consult throughout the inventory process with both federally recognized California tribes and California tribes that are not federally recognized to affiliate remains and cultural items, among other purposes. These consultations with tribes during the inventory process are critical to ensuring that campuses repatriate remains and cultural items to all California tribes in a respectful manner. After some campuses requested guidance on implementing CalNAGPRA, the Chancellor's Office issued a memo to campus presidents in December 2021 describing the inventory requirements that became effective in January 2022 and providing guidance on how to meet some of those requirements.

Consequences of Not Complying With NAGPRA and CalNAGPRA

Both NAGPRA and CalNAGPRA establish civil penalties for campuses that do not comply with their provisions. For example, the secretary of the U.S. Department of the Interior (secretary) may assess a civil penalty of up to $7,475 if campuses violate NAGPRA by failing to consult with tribes as required or by repatriating remains or cultural items without publishing the required notice in the *Federal Register*. In assessing this penalty, the secretary considers, among other factors, the damages suffered by the aggrieved party and the number of violations occurring at a campus. The secretary may also assess an additional penalty of up to $1,496 per day if the campus continues to violate NAGPRA after a final administrative decision regarding noncompliance takes effect. Similarly, the NAHC may assess a penalty in an amount

not to exceed $20,000 for each violation of CalNAGPRA's requirements. As a result, the CSU risks some financial consequences if its campuses fail to follow NAGPRA's and CalNAGPRA's requirements.

More critically, when an institution such as the CSU fails to comply with NAGPRA and CalNAGPRA, it risks damaging both its relationships with tribes and tribal communities and its reputation as an institution committed not only to academic and professional excellence but also to excellence in its inclusion of diverse groups of people. In passing NAGPRA, the federal government established that Native American tribes are legally entitled to the remains and cultural items with which they are affiliated and that museums and campuses have a responsibility to return these collections. Similarly, through CalNAGPRA, the California Legislature has determined that California tribes lacking federal recognition are legally entitled to remains and cultural items that California museums, including CSU campuses, have historically excavated and maintained. The CSU is one of California's premier institutions of higher education, with a mission to advance and extend knowledge, learning, and culture, especially throughout California. If it does not prioritize compliance with NAGPRA, the CSU may demonstrate a lack of respect for the laws governing its collections—and for the tribes whose rights the laws are attempting to protect.

A lack of institutional respect can in turn affect the attitudes of the individuals who work and study at the CSU's campuses. For example, this audit was requested in part because of an incident involving San José, where a faculty member in 2021 posted a photo of herself holding Native American ancestral remains to her personal Twitter profile. In the photo, the faculty member was smiling while holding Native American ancestral remains without gloves; her post included a comment about the collection. A tribe connected to the remains strongly objected to this incident in a public letter; the NAHC also sent a letter to the campus president explaining that the faculty member's behavior was inappropriate. This incident greatly strained relations between the campus and the local tribe. By holding itself to the highest standards for overseeing the NAGPRA and CalNAGPRA collections in its possession, the CSU could better ensure that its faculty, staff, and students honor the same standards and could better demonstrate its commitment to an inclusive environment in which all people are respected and valued.

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Chapter 1

MANY CAMPUSES HAVE NOT COMPLIED WITH PROVISIONS OF NAGPRA AND CALNAGPRA

Key Points

- More than half of the CSU campuses with NAGPRA collections that we surveyed do not yet know the extent of the remains and cultural items in their collections, despite federal law requiring them to have determined this information by late 1995.
- Only one campus has returned the majority of its NAGPRA collections to the tribes to which they belong, and the system as a whole has repatriated only 6 percent of its collections.
- When campuses reported returning remains and cultural items to tribes in response to our survey, we found that two campuses did not appropriately follow processes required by federal regulation.
- In violation of CalNAGPRA, some campuses did not consult with tribes before reviewing their collections.

Nearly 30 Years After the NAGPRA Deadline, 12 Campuses Have Not Yet Completely Reviewed Their Collections

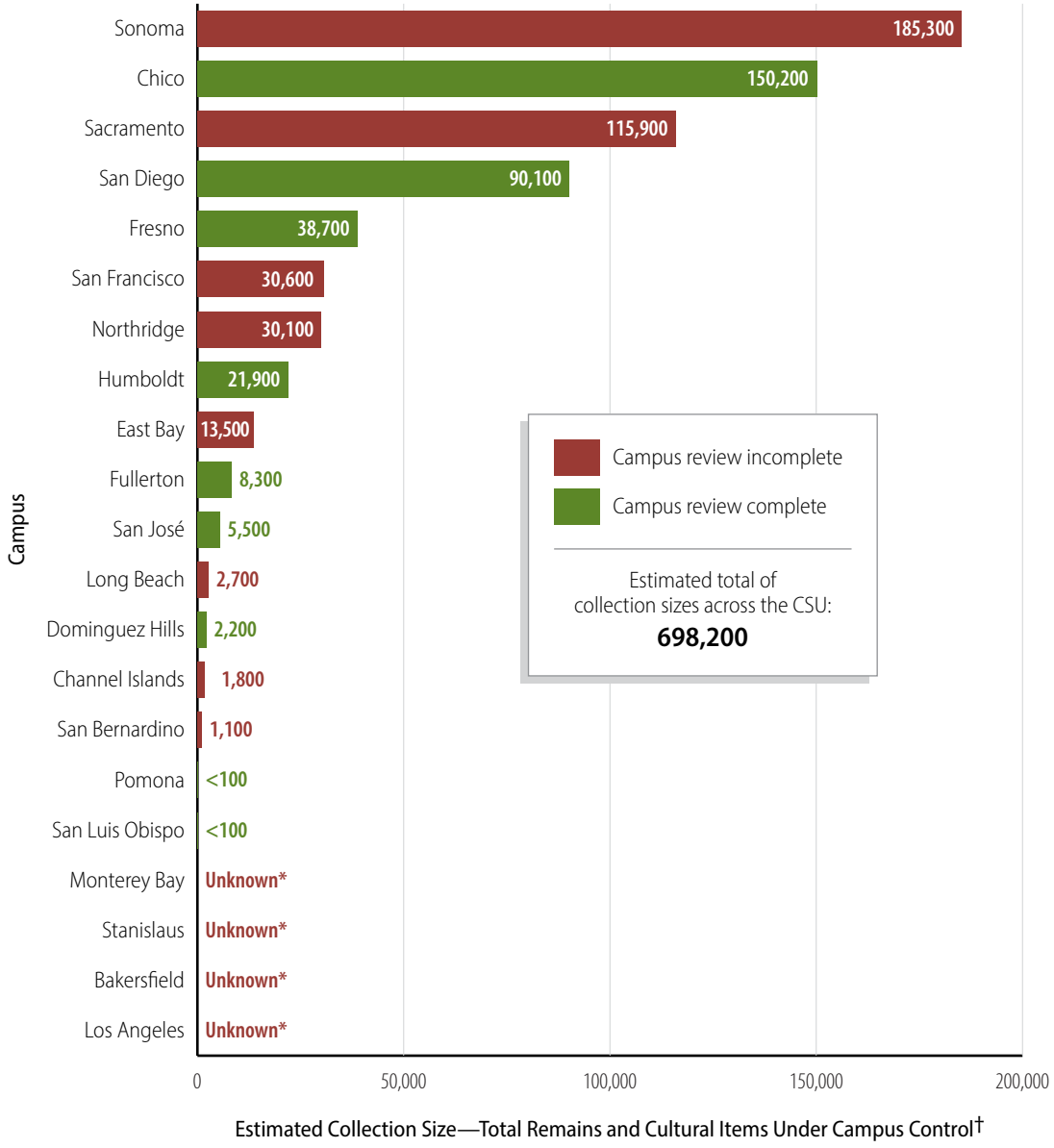
Federal law generally required campuses that had Native American remains and cultural items in their collections to complete an inventory of their collections by late 1995 and report the inventory to the national NAGPRA program, which the National Park Service administers. As part of this reporting, federal law requires agencies to describe each set of remains or cultural items in their collections and provide information about their acquisition. However, 12 of the 21 CSU campuses with collections subject to NAGPRA have not completely reviewed their collections, and many campuses still maintain sizable collections, as Figure 1 shows.[5] Completing reviews of collections is critical because it allows tribes to move forward with the repatriation process.

Of the four campuses we visited, Chico, San Diego, and San José have completed reviews of their collections because they prioritized doing so. In contrast, Sacramento has still not completed its review and identification of all of the remains and cultural items in its collection. Sacramento told us that historically, the campus did not commit the funding and staffing resources necessary for completing the review of its collections. For example, Sacramento explained that from 1990 until 2007, only one faculty member was responsible for the campus's compliance with NAGPRA,

[5] Although the CSU system includes 23 campuses, two campuses—California State University Maritime Academy (Maritime Academy) and California State University San Marcos (San Marcos)—reported that they do not have collections subject to NAGPRA.

and this faculty member performed this work in addition to their course and department workload. Sacramento's staff explained that although the campus did hire two additional NAGPRA staff beginning in 2007, staffing and funding levels since have been inconsistent. For example, the campus halted most of its review of collections from 2012 to 2015 because the campus lacked a collections manager.

Figure 1
Many Campuses Still Maintain Sizable Collections, and Fewer Than Half Have Completely Reviewed Them



Source: Estimates provided by campuses to our survey of CSU campus NAGPRA and CalNAGPRA activity.

Note: Campuses are responsible for counting their NAGPRA collections and have different methods for doing so. The amounts presented here are estimates, based on the information campuses provided to our team.

* These campuses have not yet performed the work needed to provide an estimate of the size of their NAGPRA collections. However, all four campuses reported human remains in their collections and reported having more than one hundred boxes that they still need to review.

† Maritime and San Marcos reported that they do not have collections subject to NAGPRA.

In addition, the campus noted recent developments that have prevented it from completing its review. Specifically, a consortium of local tribes requested in June 2021 that the campus halt physical handling of the remains and cultural items affiliated to the members of the tribes, which Sacramento explained represents the majority of its collections. Sacramento said that the local tribes requested that the campus instead only use available documentation, such as excavation records, to review the collections. Under CalNAGPRA, campuses must consult with tribes regarding protocols to be used in the inventory process, including but not limited to protocols to minimize handling.

Sacramento is not alone in its lack of progress. In fact, a total of 12 campuses—including Sacramento—reported through our survey that they had not completely reviewed their collections. We present summary information about the responses we received to our campus survey in Table A1 in Appendix A. We also present additional individual campus responses to selected survey questions, including whether each of the 21 campuses have completed their review of their collections, in Table A2. Four campuses—California State University, Bakersfield (Bakersfield); California State University, Los Angeles (Los Angeles); California State University, Monterey Bay (Monterey Bay); and California State University, Stanislaus (Stanislaus)—were unable to provide us with an estimate for their collection size, since they still have hundreds of boxes of remains and cultural items to review. Other campuses, such as California State University, San Bernardino (San Bernardino) and Sonoma State University (Sonoma), were able to provide an estimate but still need additional time to complete their review. As Figure 1 shows, many campuses still maintain very large collections more than 30 years after NAGPRA was enacted, while some do not yet know their collection size.

Campuses reported a lack of prioritization and dedicated funding for NAGPRA as the main reasons they have not completed their reviews of their collections. Sacramento's president agreed that the campus has historically not prioritized compliance with NAGPRA. The campus noted that it only recently provided a budget for repatriation work, in the fall of 2022, and that previously it had prioritized reviewing its collections based on when it received available grant funding from the National Park Service. Another campus, California State University Channel Islands, similarly noted a historical lack of staffing, funding, and administrative prioritization as the reasons it has not completed the required review of its collections. We describe this lack of administrative prioritization and dedicated funding for campus repatriation activity later in this report.

Most Campuses Have Made Little Progress in Repatriating Their NAGPRA Collections

Of the four campuses we visited, Sacramento and San Diego have repatriated some of their remains and cultural items to tribes, while San José had very minimal repatriation activity. Sacramento reported returning nearly 5,700 remains and cultural items to tribes, and San Diego reported returning about 21,500 remains and cultural items to tribes. These repatriations, however, make up only 5 percent of Sacramento's collection and nearly 20 percent of San Diego's collection—Sacramento and San Diego have some of the largest collections of remains and cultural items in the CSU system.

Including Sacramento and San Diego, nine of the 21 campuses we surveyed with NAGPRA collections reported repatriation activity. In Table A3 in Appendix A, we present the campuses' reported repatriation activity, which shows when and where the repatriations occurred and the tribes that received the remains or cultural items. Table 2 shows that the CSU system as a whole has repatriated only 6 percent of its collections to tribes.

Table 2
Of the 21 Campuses with NAGPRA Collections, Only One Has Repatriated the Majority of Its Collection

CAMPUS*	PERCENT OF COLLECTION REPATRIATED
Long Beach	70%
San Francisco	32
San Diego	19
Sacramento	5
Channel Islands	1
Fullerton	0.2
Sonoma	0.2
San José	0.1
Dominguez Hills	0.05
Chico*	0
East Bay	0
Fresno	0
Humboldt	0
Northridge	0
Pomona	0
San Bernardino	0
San Luis Obispo	0
Bakersfield	0
Los Angeles	0
Monterey Bay*	0
Stanislaus	0
CSU Systemwide	**6%**

Source: Responses provided by campuses to our survey of NAGPRA activity and interviews with campuses.

Note: Although the CSU system includes 23 campuses, two campuses—Maritime Academy and San Marcos—reported that they do not have collections subject to NAGPRA.

* Although Chico and Monterey Bay have returned remains to tribes, they did not repatriate the remains, as repatriation is a specific process outlined in NAGPRA. We describe this shortcoming later in this chapter. In this table, we assess Chico and Monterey Bay as having repatriated zero percent of their collections.

Sacramento and San Diego have had some success in repatriating their collections in part because they began these efforts years before the 2020 amendments to CalNAGPRA. Sacramento received a federal NAGPRA grant to document and conduct consultation on one of its collections in 2009. In 2011 Sacramento sent consultation invitations to tribes for this collection, resulting in two repatriations in 2022. The campus completed three other repatriations in 2011, 2015, and 2022. San Diego first identified tribes connected with its collections and sent invitations to them, requesting consultation, in 1995. By September 2010, the campus reported that it had completed six repatriations, and in 2012, the campus had completed an additional four repatriations.

Despite San Diego's early efforts to repatriate its collections, the campus has not had any repatriation activity in the last 10 years. Following its last repatriation activity in 2012, San Diego paused efforts to proactively repatriate its collections. In explaining the lack of any repatriation activity since 2012, San Diego said that it had not received any claims from tribes for the return of remains or cultural items. The campus acknowledged that it had not taken proactive steps—such as regularly notifying tribes about the remains and cultural items that still reside in its collection—to facilitate repatriation during this time and that it did not proactively consult with tribes on its collections until February 2022. San Diego explained that it had not proactively consulted with tribes from 2012 to 2022 because it had previously consulted with tribes on its NAGPRA collections and proactive consultation was not something considered a best practice at the time. However, the campus recently explained that it now plans to contact tribes annually about its NAGPRA collections.

Although San José and Chico have had either little or no repatriation activity, both campuses have taken steps recently to repatriate some of their collections. Because San José's collection is associated with non-federally recognized California tribes, it did not have repatriation activity until the 2020 amendments to CalNAGPRA, which allowed these tribes to file repatriation claims. San José completed one repatriation in 2020. Chico told us that it did not complete the review of its NAGPRA collection until 2013 and did not begin efforts to consult on its NAGPRA collection until late 2019. Although its anthropology department returned human remains to one tribe in 2014, the department did not follow the process required by NAGPRA, an issue we describe later in this chapter. However, Chico has made progress in recent years; in 2020, the campus began consulting with local tribes on what it explained represents about 60 percent of the remains and cultural items in its collection. The campus affiliated these remains and cultural items and initiated the repatriation process in 2023 by submitting the required notices to the *Federal Register*. Accordingly, Chico may repatriate a large portion of its NAGPRA collection shortly.

Other campuses surveyed provided a variety of reasons for their lack of repatriation activity, including a lack of funding, insufficient NAGPRA staff, and limited communication between campus leadership and its departments. For example, California State Polytechnic University, Humboldt (Humboldt) told us that because of a lack of funding, it never completely reviewed the contents of its collection; further, it did not have a designated NAGPRA coordinator until January 2022. California State University, Northridge (Northridge) explained that after 1995, the campus did not proceed with its repatriation efforts until the National Park Service

informed it of its noncompliance in 2019. Current Northridge staff told us they do not know why the campus discontinued its repatriation efforts during this time. The president of Bakersfield explained that because the campus relied on its academic departments in the past to implement NAGPRA, campus leadership was not aware of the status of its collections, including any requests for the return of remains or cultural items. Bakersfield told us that it nonetheless began work to assess its collections in November 2020, followed by consultations with the leadership of tribes in their geographical area. Humboldt and Northridge provided us with evidence demonstrating they have recently begun consultations with tribes.

Although campuses have taken steps towards repatriating their collections, repatriation can be a lengthy process, and the results of campus efforts will take time to materialize. Consultation, which precedes and can facilitate repatriation, is itself a lengthy process because state law requires that campuses carefully consider the views of tribes and their cultural values. Consultations are also affected by constraints that tribes might face, such as the need for tribal members to take time off work to attend consultations, the logistics of travel, and limited tribal funding. Further, the repatriation process requires campuses to follow prescribed steps, such as reporting information for the National Park Service to post as a notice in the *Federal Register*, and campuses may need to halt efforts to repatriate their collections due to limited staffing. As a result, although campuses may have initiated efforts to consult with tribes and, in some cases, begun consultations, it may be years before they can complete the associated repatriations.

Two Campuses Did Not Follow Federal Law When Returning Remains to Tribes

Chico and Monterey Bay returned remains to tribes without informing the federal government and other tribes through postings in the *Federal Register* as required. Federal regulations and CalNAGPRA outline the legal processes campuses must use to repatriate their collections to tribes.[6] Both NAGPRA and CalNAGPRA require campuses to consult with tribes to affiliate the remains and cultural items in a campus's collection. Under federal law, campuses must then report this information to the National Park Service to be posted in the *Federal Register*, allowing other tribes the opportunity to determine their own interest in the remains or cultural items. If no other tribes submit a claim, the tribe or tribes listed in the *Federal Register* notice may submit a claim to repatriate the remains and cultural items, if they have not already done so, and repatriation may occur. The purpose of the federal regulations is to create a process to determine the rights of tribes with respect to remains and cultural items, and posting in the *Federal Register* is therefore a key step in the repatriation process.

Although Chico and Monterey Bay returned remains to tribes, simply returning remains and cultural items is different from repatriation, a formal process outlined in the NAGPRA regulations. Chico reported that it had returned remains to a tribe

[6] Federal regulations and CalNAGPRA also allow for the repatriation of remains and cultural items to lineal descendants, but this discussion focuses on repatriation to tribes.

in 2014, after the campus's anthropology museum discovered the remains in a box labeled with the tribe's name. Current faculty from Chico's anthropology department, which was responsible for NAGPRA repatriation activity at the time of the return, explained that they cannot find the documentation for this return and that the faculty members who handled it are now retired. The faculty noted that during the time of this return, the department was unaware that NAGPRA regulations required campuses to follow a specific process when repatriating their collections and had focused instead on regulations related to reviewing its NAGPRA collection. They said that this was likely the reason the campus did not submit information for publication in the *Federal Register* for tribes to review or ask the tribe to submit a claim. As shown in Table 3, in addition to Chico not meeting NAGPRA's requirements, Sacramento also did not comply with a procedural requirement for one of its repatriations.

Table 3
The Four Campuses We Visited Did Not Always Follow NAGPRA Requirements

		DID CAMPUS MEET REQUIREMENT TESTED?			
REQUIREMENT TESTED		CHICO*	SACRAMENTO	SAN DIEGO	SAN JOSÉ
NAGPRA Procedural Requirements for Repatriation	Campuses must determine cultural affiliation of tribes to remains and cultural items using types of evidence such as geographical, archaeological, linguistic, folklore, and oral tradition.	YES	YES	YES	YES
	Campus must consult with tribes throughout the repatriation process.	YES	YES	YES	YES
	Repatriation of remains and cultural items must not proceed prior to the publication of a notice in the *Federal Register*. Repatriation may not occur until at least 30 days after notice publication.	NO	YES	YES	YES
	Campuses must repatriate remains and cultural items within 90 days after receiving a repatriation claim, provided that 30 days have passed since notice publication.	NO	NO	YES	YES

Source: Federal law, campus documentation for selected repatriations and a return, and interviews with campus NAGPRA staff.

Note: We evaluated four of Sacramento's and San Diego's repatriations, San José's one completed repatriation, and Chico's single return of remains.

* Chico did not follow NAGPRA's procedural requirements for the return it completed, although the campus did meet some of NAGPRA's requirements when completing this return.

During our follow-up to its responses to our survey, we found that Monterey Bay also did not follow the process required by NAGPRA when returning remains to a tribe. The campus reported that it returned one set of remains to a tribe in April 2022, without submitting the required information for inclusion in the *Federal Register*. Monterey Bay initiated this return after its president received the Chancellor's Office's December 2021 memo related to CalNAGPRA requirements. Campus staff and faculty explained that at the time, they had not worked on any NAGPRA claims or repatriations and were

unaware of the specific steps the law required. The campus identified three tribes that claimed origins in the area but only contacted two of those tribes with whom the campus had maintained relationships. The campus returned the remains after one of the tribes responded. Monterey Bay did not contact all possibly affiliated tribes; it simply returned the remains to a tribe that it believed was connected to the remains without providing an opportunity for other tribes to review that conclusion in the *Federal Register* and determine their own interest. Campus NAGPRA staff told us that they became fully aware of NAGPRA requirements in December 2022, when the Chancellor's Office's systemwide project manager visited the campus and explained the requirements. Additional training on NAGPRA's requirements by the Chancellor's Office may have prevented these campuses' errors.

Six Campuses Did Not Follow CalNAGPRA's Requirements for Consulting With Tribes When Reviewing Their Collections

The 2020 amendment to CalNAGPRA requires campuses to consult with California tribes before conducting new or additional inventory work of their collections, which the law required them to provide to the NAHC by April 1, 2022. The law defines *consultation* as the meaningful and timely process of seeking, discussing, and considering carefully the views of others in a manner that recognizes all parties' cultural values and is respectful of tribal sovereignty. The consultation that CalNAGPRA requires before a campus reviews its collections allows tribes to communicate handling preferences and share tribal knowledge and traditions, helping to ensure respectful treatment of their ancestors and cultural items during the inventory and other repatriation processes.

Although three of the campuses we visited complied with CalNAGPRA's consultation requirements, we found that the campuses that we list in the text box did not comply, limiting tribal opportunities for participating in the campuses' review of their collections. Chico, Sacramento, and San José satisfied CalNAGPRA's consultation requirements by taking steps to consult with tribes before submitting their inventories, or lists of remains and cultural items from California, to the NAHC. As shown in Table 4, San Diego also submitted its inventory to the NAHC by the required deadline; however, San Diego did not satisfy the requirement to consult with tribes before conducting work on its inventory. San Diego explained that it focused primarily on submitting the inventory by the deadline, since it believed doing so would increase transparency by providing tribes with information on its collections. San Diego explained that it learned at an August 2022 workshop hosted by the NAHC that the NAHC and California tribes expected consultation to occur prior to inventory submission. Because San Diego did not consult with tribes before submitting its inventories, affiliated tribes lost the initial opportunity to share their preferences for how the campus should treat their ancestors and cultural items during the process to create the inventory.

CSU Campuses That Did Not Consult With Tribes Before Reviewing Collections

- Fresno
- Fullerton
- Humboldt
- Monterey Bay
- Northridge
- San Diego

Source: Campus interviews.

Table 4
The Four Campuses We Visited Generally Followed CalNAGPRA's Requirements

		DID CAMPUS MEET REQUIREMENT TESTED?			
REQUIREMENT TESTED		CHICO	SACRAMENTO	SAN DIEGO	SAN JOSÉ
CalNAGPRA Inventory and Consultation Requirements	By April 1, 2022, campuses must provide the NAHC with an inventory of the remains and cultural items in their collections subject to CalNAGPRA.	YES	YES	YES	YES
	Prior to conducting work on their inventories, campuses must consult with California tribes, allowing these tribes to communicate handling preferences and share tribal knowledge and traditions.	YES	YES	NO	YES

Source: State law, campus inventory submissions, and interviews with campus NAGPRA staff.

In addition to San Diego, five other campuses did not properly consult with tribes before reviewing their NAGPRA collections. These campuses gave varying reasons for not doing so. For example, Humboldt explained that it reviewed its collections to identify, remove, and dispose of materials that were not cultural items, such as rocks collected from the excavation sites from which cultural items or remains came. Humboldt elaborated that it took this step to reduce the amount of material tribes would have to review; however, the campus should not have done so without consulting with tribes first. Northridge explained that it reviewed and inventoried its collections before consulting with any tribes because it wanted to have a full understanding of its collections and planned to subsequently revise its inventory after it consulted with tribes. The five campuses reported that they have either begun or are initiating consultations with tribes regarding their inventories. However, had these campuses appropriately followed the law, they would have involved tribes throughout their reviews.

The NAHC's records show that four campuses, listed in the text box, did not submit their inventories in 2022 and cited a variety of reasons for not doing so. California State University, Fresno (Fresno) explained that it attempted to submit records to the NAHC but was unsuccessful because of technical difficulties and limited staff, shortcomings it is still working to overcome. California State University, Fullerton (Fullerton) said that it did not provide its inventory to the NAHC because from February 2022 to July 2022, it prioritized organizing its collections to allow for long-term storage and easier identification. The campus now has more information about its collections and is consulting with tribes before it submits records to the NAHC.

CSU Campuses That Did Not Submit Inventories to the NAHC

- Fresno
- Fullerton
- Los Angeles
- Monterey Bay

Source: NAHC inventory records and campus interviews.

The other two campuses either did not know about their responsibilities under CalNAGPRA or did not know they had collections to report. Monterey Bay did not submit its inventory because the campus administration did not fully understand its responsibilities under CalNAGPRA. The campus explained that it has since

contracted with additional staff to complete its inventory. Los Angeles said that it was unaware that it had any collections to report to the NAHC until the fall of 2022, when it discovered remains in the laboratory of a former faculty member who had not reported them previously. Although these four campuses assert they are now working on completing their inventories and are consulting with tribes as they do so, these delays mean that tribes will have to wait even longer for the return of their ancestors' remains and cultural items.

Campuses we visited provided various descriptions of their efforts to obtain guidance from the NAHC regarding CalNAGPRA's consultation requirements. For example, San José said that the oversight and help it received from the NAHC contributed to the campus's success in meeting CalNAGPRA's requirements for inventories, although the campus may have received this attention from the NAHC due to the social media incident involving the faculty member. Chico explained that it communicates with the NAHC regularly but that it struggled to receive a timely response when inquiring about CalNAGPRA's consultation requirements and received no response to a request for an updated contact list for California tribes. San Diego similarly explained that it was unable to obtain clarification from the NAHC regarding CalNAGPRA's requirements for inventories, which is partly why the campus did not consult with tribes on handling preferences before completing its inventory.

Chapter 2

CAMPUSES GENERALLY LACK THE POLICIES, FUNDING, AND STAFFING NECESSARY TO SUPPORT REPATRIATION

Key Points

- None of the four campuses we visited has established a comprehensive repatriation policy, and we identified areas within their draft policies, interim policies, and department-specific policies that did not reflect best practices.
- Ten of the campuses we surveyed with NAGPRA collections reported that they lack the funding necessary to comply with NAGPRA and CalNAGPRA and that they have not historically prioritized ensuring that they obtain needed funding.
- Roughly half of the CSU campuses with NAGPRA collections lack committees to oversee their compliance with NAGPRA and CalNAGPRA and the repatriation of their collections.

Campus NAGPRA Policies Do Not Always Cover the Entire Campus or Reflect Best Practices

CSU campuses have not adequately prioritized compliance with NAGPRA and CalNAGPRA, as demonstrated by the lack of comprehensive NAGPRA policies at many of these campuses. Having policies to direct and guide the staff responsible for the return of campus collections to tribes is critical because such policies not only provide staff with direction on how to appropriately and respectfully repatriate remains and cultural items but also ensure that staff across a campus are doing so in a consistent manner. As part of our audit, we reviewed the NAGPRA policies and procedures (policies) of the four campuses we visited to determine whether they reflect the best practices we derived from the sources in the text box in the following four areas: storage, inventory management, and handling of collections; addressing disputes between tribes and campuses; social media use; and the transparency of campus repatriation processes.

Sources That Inform NAGPRA Policy Best Practices

- The NAHC.
- Preferences from tribes on handling and management of collections.
- Federal guidance on how to complete CalNAGPRA and NAGPRA processes together.
- NAGPRA and CalNAGPRA laws and regulations.
- Guidance from the American Alliance of Museums.
- Curation of Federally Owned or Administered Archaeological Collections standards.
- University of California NAGPRA Policy.
- Smithsonian Institution Collections Management Policy.

Source: Auditor assessment.

A key best practice is the implementation of a comprehensive repatriation policy for staff to follow regardless of the academic department in which they work. When multiple entities on a campus hold NAGPRA collections and have different policies for those collections, the campus may not adhere to their responsibilities under NAGPRA and CalNAGPRA consistently, which can damage relationships with tribes.

Although we expected each campus to have developed and formalized a comprehensive repatriation policy, we found that none of the campuses had done so, as Table 5 shows. Therefore, we evaluated the campuses' draft and interim policies or those policies that were specific to campus departments that maintained collections. We found that these policies varied significantly from campus to campus. For example, Chico and San Diego have department-specific policies and lack a campuswide repatriation policy. These campuses explained that they have historically relied on individual departments, such as anthropology, to comply with NAGPRA and establish their own repatriation practices because these entities physically manage the collections. On the other hand, Sacramento and San José have not finalized all of their policies, which have been in draft or interim form since 2019 and 2021, respectively. Sacramento attributed its delay in finalizing the policy, in part, to staff confusion about which entity at the campus or at the Chancellor's Office was responsible for approving the policy. Further, the campus's NAGPRA staff and campus leadership decided that because the policy addressed legal compliance, staff should have the Chancellor's Office legal team perform a review of the policy, which staff explained the Chancellor's Office did not complete. San José said that it had finalized most of its policies and would be finalizing the remaining policy soon. The lack of a comprehensive campuswide policy at each of these four campuses likely contributed to the concerns we describe regarding their adherence to NAGPRA and CalNAGPRA requirements.

Table 5
The Four Campuses We Visited Do Not Have Single, Comprehensive, Campuswide NAGPRA Policies

	DOES CAMPUS HAVE POLICY THAT MEETS BEST PRACTICE?			
BEST PRACTICE	CHICO*	SACRAMENTO	SAN DIEGO*	SAN JOSÉ
Each campus should have a single, comprehensive, campuswide policy that guides its compliance with NAGPRA and CalNAGPRA. The campus should have engaged with tribes when creating it.	NO	NO	NO	NO

Source: UC NAGPRA Policy, Smithsonian Institution Collections Management policy, and auditor review of campus policies.

Note: We reviewed campuses' policies (final and draft/interim) to evaluate whether they reflect the best practices.

* These campuses do not have policies that apply to the entire campus. Instead, individual departments at these campuses have policies related to their primary NAGPRA collections.

In addition, either the campuses did not consistently include in their policies the best practices we identified or they only partially included those practices, as the text box on the following page describes. Despite these policy gaps, the campuses claimed that they generally employ all of the best practices in question. For example, both Chico and Sacramento stated that they defer to tribal wishes on how they store, handle, and manage the tribes' ancestors and cultural items, even though their policies do not include this practice. Nearly all of the tribal members we interviewed whose tribes were potentially connected to the remains and cultural items generally agreed that these two campuses deferred to their wishes on handling procedures. Nevertheless, unless a campus includes a practice in its formal policy, the campus is

at greater risk of its employees being unaware of appropriate NAGPRA practices. Further, when campuses' policies do not reflect their actual practices, tribes may experience confusion or frustration with this disconnect when consulting with campuses. For example, if a campus states that it has a process by which it ensures the physical security of its collections, but the campus policy does not clearly explain this process or cover all collections, the campus could create an environment that leaves tribes concerned about the safety of their ancestors' remains and cultural items.

Examples of Partial Inclusion of Best Practices in Policies

- Chico has a policy on how to ensure the physical security of some, but not all, of its collections.
- Sacramento has a NAGPRA committee, but the campus policy does not establish that the committee will have independent tribal representation in its membership.
- San Diego has a policy not to display cultural items without clear permission from tribes; however, it acknowledged it currently does not adhere to this policy.
- San José's policy identifies specific staff to manage its collection, but the campus does not have a NAGPRA oversight committee.

Source: Auditor analysis.

In particular, as Table 6 shows, the four campuses' policies related to storage and inventory management do not sufficiently reflect all best practices. For example, the campuses should specify in their policies that all records, remains, and cultural items should be stored in dedicated spaces, with appropriate physical security conditions and emergency plans. However, most of the campuses' policies do not fully address these practices. We examined the storage spaces at each of the four campuses when we visited them and generally did not identify any concerns regarding the manner in which the campuses secure their collections. For example, all four campuses housed their collections in secure and key-controlled labs and spaces. However, in some instances, we observed collection storage boxes with signs of environmental damage, such as possible water exposure. It is important that the policies specify storage and inventory standards to ensure that campuses consistently store remains and cultural items properly to avoid damage to the collections.

In addition, San Diego and San José do not have policies in place to sufficiently restrict the acceptance of Native American remains or cultural items or the receiving of loans of such collections. The NAHC said that a best practice is for all campuses to stop the loaning of collections unless the connected tribes approve or request such a loan, and in general the NAHC would like campuses to consult with the connected tribes on any handling of the associated collections. Without having such policies in place, campuses risk increasing their collection sizes or moving collections without tribal approval. In response to our review, San Diego and San José said they plan to incorporate the relevant best practices into their policies and are not actively increasing their collection sizes or allowing loans.

We also found that campuses' policies do not sufficiently incorporate best practices related to addressing disputes between tribes or between tribes and the campus, as Table 7 shows. NAGPRA and CalNAGPRA both outline processes to resolve disputes. We expected campuses to have a policy that incorporates these processes by outlining methods for resolving disputes between tribes, for tribes to submit appeals of campus decisions, and for tribes to submit complaints about campus staff to an objective third party, such as the NAHC. However, Chico's and San Diego's

policies do not reflect this best practice. The lack of comprehensive policies in this area can contribute to confusion for both campuses and tribes, leaving them to partake in an ad-hoc process without clear procedures.

Table 6
At the Four Campuses We Visited, Policies on Storage and Inventory Management Do Not Consistently Reflect Best Practices

	DOES CAMPUS HAVE POLICY THAT MEETS BEST PRACTICE?			
BEST PRACTICE	CHICO*	SACRAMENTO	SAN DIEGO*	SAN JOSÉ
Tribes should determine how their ancestral remains and cultural items should be stored, handled, and managed.	NO	NO	YES†	PARTIALLY
Access to collections should be limited to collections' management professionals and should reflect tribal requests.	PARTIALLY	YES	YES	YES
Accepting new collections and loaning collections should be restricted to the extent possible.	YES	YES	NO	NO
Campuses should adhere to professional curation standards and maintain complete records.	YES	YES	YES	PARTIALLY
All records, remains, and cultural items should be stored in dedicated spaces, with appropriate physical security conditions and emergency plans.	PARTIALLY	YES	PARTIALLY	PARTIALLY

Source: UC NAGPRA Policy, state law, NAHC, federal guidance, Smithsonian Institution Collections Management policy, guidance from American Alliance of Museums, curation standards, and auditor review of campus policies.

Note: We reviewed campuses' policies (final and draft/interim) to evaluate whether they reflect the best practices.

* These campuses do not have policies that apply to the entire campus. Instead, individual departments at these campuses have policies related to their primary NAGPRA collections.

† Although San Diego has a policy allowing tribes to determine how their ancestral remains and cultural items should be managed, the campus did not meet CalNAGPRA's requirement to consult with tribes before conducting work on its updated inventory, as described previously.

Table 7
At the Four Campuses We Visited, Policies on Disputes Between Campuses and Tribes Do Not Consistently Reflect Best Practices

	DOES CAMPUS HAVE POLICY THAT MEETS BEST PRACTICE?			
BEST PRACTICE	CHICO*	SACRAMENTO	SAN DIEGO*	SAN JOSÉ
Tribal representatives may appeal decisions or submit complaints to a party that is separate from the campus repatriation team.	NO	NO	NO	YES
Each campus should have a plan for responding to disputes, complaints, and appeals.	NO	YES	NO	YES

Source: UC NAGPRA Policy, federal and state law, and auditor review of campus policies.

Note: We reviewed campuses' policies (final and draft/interim) to evaluate whether they reflect the best practices.

* These campuses do not have policies that apply to the entire campus. Instead, individual departments at these campuses have policies related to their primary NAGPRA collections.

In response to our concerns, San José has updated its policies to address potential disputes, but it did not have these policies in place during our initial review. This is important because San José currently has a collection from an ancestral site in the San Francisco Bay Area to which two tribes have claimed historical or genealogical ties. Although the campus did not formerly have a policy to resolve this territorial dispute as part of its repatriation processes, San José has since updated its policies to provide a means for a tribe to appeal a campus decision or action to the NAHC.

Additionally, the Joint Legislative Audit Committee asked us to review campus policies associated with social media use and misuse as they relate to Native American remains and artifacts; however, we did not identify any best practices specific to this area, nor did we find that any of the four campuses had such policies. Nonetheless, we did identify a best practice that restricts the exhibition of remains and cultural items, and one of the four campuses' policies includes this best practice, as Table 8 shows. Further, although San Diego has a policy that declares it will not display remains or cultural items without the specific approval of the connected tribes, the campus has not followed this policy. Specifically, San Diego currently displays some cultural items without documented approval from the connected tribes, which is why we have assessed the campus's policies as partially sufficient in this area in Table 8. San Diego noted that it has not received feedback from tribes saying that these displays are a concern. Similarly, San José acknowledged that it displays research posters in its lab space with images of collections also without documented approval from tribes. Given that a professor at San José posted a picture of herself holding a Native American ancestral skull and that no prior policy restricted staff and faculty from taking photos of the remains, the absence of policies in this area and of the oversight that ensures those policies are followed can weaken campus-tribal relations as well as public trust in campuses as stewards of remains and cultural items.

Table 8
At the Four Campuses We Visited, Policies on the Exhibition of Collections Do Not Consistently Reflect Best Practices

	DOES CAMPUS HAVE POLICY THAT MEETS BEST PRACTICE?			
BEST PRACTICE	CHICO*	SACRAMENTO	SAN DIEGO*	SAN JOSÉ
No exhibition of remains and cultural items, unless authorized by the connected tribe.	PARTIALLY	YES	PARTIALLY	PARTIALLY

Source: UC NAGPRA Policy, Smithsonian Institution Collections Management policy, NAHC, preferences from tribes, and auditor review of campus policies.

Note: We reviewed campuses' policies (final and draft/interim) to evaluate whether they reflect the best practices.

* These campuses do not have policies that apply to the entire campus. Instead, individual departments at these campuses have policies related to their primary NAGPRA collections.

Finally, we identified shortcomings in the campuses' policies related to transparency in the repatriation process. The Smithsonian Institution has identified consultation with tribes when establishing policies related to NAGPRA as a part of its policy, which we agree is a best practice related to transparency. We expected CSU campuses to have obtained tribal input to inform their NAGPRA policies. However, only San José explained it sought such input. The other three campuses acknowledged that they did not consult with tribes because at the time they drafted their policies, they did not believe doing so was an identified best practice. In response to our review, the other three campuses now plan to consult with tribes and update their policies. Without tribal input, campuses cannot ensure that their policies adequately address tribal needs and concerns.

Another issue that reduces transparency is that not all the campuses have public NAGPRA websites, which Table 9 shows. Such a website provides tribes and the public with contact information for relevant staff, campus policies, and copies of required NAGPRA forms, such as those that tribes use to submit claims. Both Sacramento and San José have webpages for tribes and the public to learn about campus NAGPRA resources. However, Chico does not have a NAGPRA website, and San Diego said that it is currently drafting one. Tribes are hindered in their ability to fully exercise their rights to repatriation if campuses do not make their NAGPRA resources fully and easily accessible. Because of the inconsistencies and shortcomings in campus policies, we believe that the Chancellor's Office should develop a systemwide policy that campuses must follow—an issue we describe in more detail later in this report.

Table 9
At the Four Campuses We Visited, Policies on Transparency in the Repatriation Process Do Not Consistently Reflect Best Practices

	DOES CAMPUS HAVE POLICY THAT MEETS BEST PRACTICE?			
BEST PRACTICE	CHICO*	SACRAMENTO	SAN DIEGO*	SAN JOSÉ
On their main public website, campuses should have a section devoted to their compliance with NAGPRA and CalNAGPRA and include contact information.	NO	YES	NO	YES
Campuses should have a dedicated NAGPRA and CalNAGPRA coordinator and a campus committee with tribal representation.	PARTIALLY	PARTIALLY	PARTIALLY	PARTIALLY
Campuses should maintain records of their regular communications with tribes.	NO	YES	NO	YES

Source: UC NAGPRA Policy, Smithsonian Institution Collections Management policy, NAHC, preferences from tribes, and auditor review of campus policies.

Note: We reviewed campuses' policies (final and draft/interim) to evaluate whether they reflect the best practices.

* These campuses do not have policies that apply to the entire campus. Instead, individual departments at these campuses have policies related to their primary NAGPRA collections.

Campuses Have Struggled to Prioritize Funding for Their Repatriation Activities

Of the 21 campuses we surveyed with NAGPRA collections, 10 reported that they do not have sufficient funding to support their responsibilities under NAGPRA and CalNAGPRA, as we note in Table A2 in Appendix A. These 10 campuses included three of the four we visited. Although in fiscal year 2021–22, the 21 campuses we surveyed with NAGPRA collections had operating fund expenses ranging from roughly $130 million to nearly $580 million, approximately 70 percent of these expenses paid for staff salaries and benefits and another 10 percent provided financial aid to students. In addition, the campuses may have limited flexibility to fund new or additional expenditures related to NAGPRA. While several campuses reported that they have some funding for their repatriation activity, they do not believe the funding is sufficient. For example, Bakersfield currently dedicates about $90,000 annually to its NAGPRA efforts but has not completed its CalNAGPRA inventory; the campus reported that it needs to enhance its collections' physical and digital security and hire additional staff. Several campuses reported that they do not consistently provide any funds for furthering their repatriation activity, beyond one-time expenditures or temporary assignments for faculty and graduate students.

Leadership at these campuses said that they do not have sufficient staff and resources, such as secure facilities, to support their inventory and repatriation efforts. Some campuses explained that they are experiencing these difficulties, in part, because campus administrations have not always prioritized NAGPRA compliance. In the past, several campuses relied on individual academic departments, such as anthropology, to comply with NAGPRA and repatriate their collections, and their administrations exercised limited oversight with little communication.

Three of the four campuses we visited—San Diego, Chico, and San José—communicated similar difficulties in providing adequate resources to facilitate their repatriation activity. For example, San Diego spent approximately $200,500 in fiscal year 2022–23 toward its NAGPRA efforts, but this amount almost entirely funded staff. The campus explained that it still faces difficulties funding operational and curation costs, such as materials and supplies, facilities with environmental monitoring, and financial assistance to tribes. Chico's anthropology department staff explained that the department has historically made requests to campus leadership for funding to assist with NAGPRA implementation but that these requests were not always granted if they included more than additional hours for faculty or staff to work on NAGPRA. San José told us that it had not historically provided dedicated NAGPRA funding because the campus included repatriation activities as part of the job description of its campus NAGPRA coordinator, who is also an anthropology professor. In recent years, Chico and San José started to increase funding for NAGPRA efforts and hired additional staff; on average, they now annually spend $160,000 and $163,000, respectively. However, these two campuses expect costs to increase as they progress in their work.

Sacramento told us that it now sufficiently funds its NAGPRA efforts and will continue to do so. The campus had formerly relied on grants from the National Park Service to fund its repatriation activity, but in fiscal year 2022–23, Sacramento

budgeted a total of $390,000 for NAGPRA and CalNAGPRA compliance, of which nearly $350,000 funded staff and $37,000 funded its collections facilities. The campus does not expect this amount to change drastically for the following fiscal year.

In addition, some tribes may also need funding to engage in the repatriation process. A tribal member we interviewed told us that tribes may not have the funds to engage in consultation or reburial. There are costs associated with steps in the repatriation process, including traveling to campuses for consultations, preparing for reburial, and procuring the land needed for reburying ancestors. Although some tribes—such as those with gaming operations—have significant resources to facilitate repatriation, others do not. Of the 21 campuses that we surveyed with NAGPRA collections, Chico, Fullerton, and San Francisco reported that they provide, or plan to provide, compensation or other resources, such as meals and parking, to tribal members for their time and expertise when engaging with the repatriation process. For example, Fullerton provides an annual honorarium of $1,000 to tribal members serving on its CalNAGPRA Advisory Committee. San Francisco paid for nightly accommodations for a tribe's recent visit to the campus. When we asked some other campuses about their ability to provide resources to tribes, they told us they did not believe they have sufficient resources to offer such funding to tribes.

Given that several campuses have struggled to prioritize funding for their respective NAGPRA efforts, the Chancellor's Office should work with campuses directly to identify and assess the reasonableness of their current and future funding needs. It should then ensure campuses either use their existing funding to complete their NAGPRA work or seek additional funding to help pay for these efforts, as we discuss later in the report.

Some Campuses Lack Committees to Oversee and Review Repatriation Activity

Campus NAGPRA committees can provide oversight and accountability to campus efforts to implement NAGPRA and CalNAGPRA. They can help oversee repatriation efforts through regular review and monitoring, and they can offer advice and make recommendations on repatriation-related issues, including draft policies, repatriation claims, and disputes between tribes and campuses. When a NAGPRA committee formally reviews all repatriation claims received by a campus, the committee can better ensure that the campus is following both state and federal law, respectfully consulting with tribes, and repatriating remains and cultural items to the appropriate tribe or tribes. Moreover, when committees include independent tribal representatives, these representatives can provide insight on the repatriation process from outside the campus. Committees with this type of representation can strengthen campus relationships with tribes and provide tribal representatives the ability to make recommendations on processes, policies, and claims that directly affect tribes.

Of the 21 campuses we surveyed that have NAGPRA collections, 11 reported having committees that oversee NAGPRA processes, and four of these reported that independent Native American representatives who are external to the campus are included on their committees. The 11 campuses that reported they have committees includes three of the four campuses we visited—Chico, Sacramento, and San Diego.

However, as shown in Table 10, we found that Chico and Sacramento have implemented NAGPRA committees with differing membership and responsibilities, and that the task force San Diego has created to establish the campus's NAGPRA policies does not constitute a NAGPRA committee. San Diego has created a task force responsible for providing campus leadership with recommendations on NAGPRA policies as well as cultural affiliation. However, the task force does not yet constitute a formal NAGPRA committee because it does not meet regularly and the campus is still inviting members to serve on it. Sacramento is the only campus we visited to have independent tribal representation on its campus committee. Sacramento is also the only campus we visited with a committee that reviews claims and provides a recommendation to campus leadership, although this practice is not formalized in campus policy. Chico's committee does not formally review repatriation claims, which is an important practice to ensure campuses consistently follow state and federal repatriation requirements.

Table 10
When Established, Campus NAGPRA Committees Vary in Their Responsibilities and Amount of Tribal Representation

CAMPUS	ESTABLISHED NAGPRA COMMITTEE?	INCLUDES INDEPENDENT TRIBAL REPRESENTATIVES?	SUMMARY OF RESPONSIBILITIES
Chico	**YES**	**NO***	• Ensures campus compliance with NAGPRA and CalNAGPRA. • Monitors the status of NAGPRA claims. • Ensures repatriation to tribes in a timely manner.
Sacramento	**YES**	**YES**	• Advises administration and makes recommendations on matters relating to NAGPRA and CalNAGPRA. • Reviews NAGPRA claims and makes a recommendation to campus leadership, who makes final determination.
San Diego	**NO†**	N/A	N/A
San José	**NO**	N/A	N/A

Source: Campus documentation regarding NAGPRA committees and interviews with campus NAGPRA staff.

* Chico's committee includes members from California tribes, but those individuals are employed or otherwise affiliated with the campus.

† San Diego has created a task force responsible for providing campus leadership with recommendations on NAGPRA policies, as well as on cultural affiliation. However, the task force does not yet constitute a formal NAGPRA committee because it does not meet regularly and the campus is still inviting members to serve on it.

Although a systemwide NAGPRA committee could provide additional oversight of the CSU's implementation of NAGPRA and CalNAGPRA, the Chancellor's Office has not yet established one. A systemwide NAGPRA committee can serve as an important tool for ensuring that individual campuses comply with NAGPRA and CalNAGPRA in a timely manner. For example, the University of California (UC) has, as required by state law, established a systemwide committee responsible for receiving biannual reports from individual campuses, making systemwide recommendations on compliance with NAGPRA and CalNAGPRA, and reviewing

appeals or complaints from Native American tribes. The issues we identified regarding campuses' compliance with NAGPRA and CalNAGPRA requirements demonstrate the need for the Chancellor's Office to provide consistent, systemwide oversight of campus repatriation activity—and ensure this repatriation activity occurs timely—through a committee that has members from the system and independent tribal representatives.

Most Campuses Do Not Have Full-Time Repatriation Coordinators

Many of the 21 campuses with NAGPRA collections that we surveyed do not have coordinators who work full time on repatriation. Of the four campuses we visited, only Chico and Sacramento have full-time repatriation coordinators. Generally, a repatriation coordinator is responsible for ensuring NAGPRA and CalNAGPRA compliance at a campus. These responsibilities include consulting with tribes, ensuring that the campus follows the repatriation process, and facilitating tribes' access to remains and cultural items. However, in the absence of full-time repatriation coordinators, campuses often designate staff, faculty, or campus administrators to implement NAGPRA and CalNAGPRA. For example, San Diego's repatriation coordinator also curates the majority of the campus's archaeological collections, while San José's repatriation coordinator is an anthropology professor who teaches classes. Although both of these repatriation coordinators have experience with NAGPRA, some other campuses' coordinators lack such experience.

Although Bakersfield still has hundreds of boxes to review that contain remains and cultural items and Sonoma has the largest collection in the CSU system, both campuses have repatriation coordinators who have other responsibilities. Bakersfield's repatriation coordinator acknowledged that she does not have any experience with NAGPRA or CalNAGPRA and that she serves as the campus chief diversity officer and special assistant to the campus's president. Sonoma's repatriation coordinator is also a staff archaeologist for the campus's Anthropological Studies Center and manages the campus's anthropology collections. Bakersfield's and Sonoma's campus coordinators told us that due to their other responsibilities, they only spend about 15 and roughly five hours a week, respectively, on NAGPRA and CalNAGPRA activities related to the campuses' collections. Bakersfield's president told us that because of its lack of funding, the campus is exploring the possibility of pooling resources and sharing staff with two nearby CSU campuses. Sonoma's president told us that the campus is discussing next steps to address the future staffing needs for its NAGPRA compliance efforts.

As we pointed out in our November 2022 audit report, we believe that the repatriation coordinator position should be a full-time position, given the importance of ensuring timely repatriation activity.[7] In fact, we recommended that UC campuses with more than 100 sets of remains or cultural items have these staff positions in place to ensure that the campuses provide appropriate resources and oversight to the

[7] *Native American Graves Protection and Repatriation Act: Despite Some Recent Improvements, the University of California Has Not Yet Taken Adequate Action to Ensure Its Timely Return of Native American Remains and Cultural Items*, Report 2021-047, November 2022.

administration of NAGPRA and CalNAGPRA. Our reviews of NAGPRA claims for this and our previous two UC NAGPRA audits show us that a campus is likely to need to complete many repatriations with different tribes if they have at least 100 sets of remains or cultural items, necessitating a full-time position to administer the required repatriation processes.

Because repatriation coordinators are vital to overseeing and advancing the repatriation of campus collections, we believe that this position at CSU campuses should also be full time and filled by an individual with NAGPRA experience. The Chancellor's Office agrees that repatriation coordinators should be full-time staff with NAGPRA experience and that the size and complexity of campus collections should inform the presence of full-time repatriation coordinators. The Chancellor's Office believes that many campuses can restructure the responsibilities of the capable individuals they already employ rather than hire new individuals. We agree with the perspective that campuses can restructure the responsibilities of existing NAGPRA staff to ensure that the campuses have full-time repatriation coordinators.

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Chapter 3

THE CHANCELLOR'S OFFICE HAS DONE LITTLE TO SUPPORT THE CAMPUSES' EFFORTS TO REPATRIATE THEIR COLLECTIONS

Key Points

- Despite the campuses' historical struggles to repatriate their collections, the Chancellor's Office has provided little support of campus repatriation efforts. In the last year and a half, it has started to take steps to begin providing the assistance the campuses need.
- Although the Chancellor's Office is responsible for overseeing the CSU's academic and administrative responsibilities, it has not issued a systemwide policy to guide campuses' repatriation activities. It is only now in the very early stages of planning to develop a policy.
- The Chancellor's Office has not established a sufficient administrative structure and mechanisms for overseeing campuses' repatriation activity.

The Chancellor's Office Has Not Ensured That Campuses Have the Guidance and Funding to Repatriate Remains and Cultural Items to Tribes

Campuses still in possession of large collections of Native American remains and cultural items more than 30 years after the passing of NAGPRA lack the comprehensive policies, staff, and funding necessary to complete their repatriation efforts in a timely manner. Because the Chancellor's Office formally delegated to campuses the responsibility for complying with NAGPRA after the law's passage in 1990 and has historically done very little to support or guide the campuses' efforts, there has been very limited systemwide leadership to ensure the CSU system's compliance with this law. As Figure 2 shows, this past inaction by the Chancellor's Office has contributed to a variety of problems.

As Figure 3 shows, the Chancellor's Office has recently begun to take steps to provide some guidance to campuses regarding repatriation requirements. For example, in response to requests from some campuses, the Chancellor's Office issued a memo to all campus presidents in December 2021 describing CalNAGPRA's time-sensitive requirements for creating detailed inventories of Native American remains and cultural items by January 1, 2022, and submitting these inventories to the NAHC no later than April 1, 2022. The memo also provided guidance on how to meet some of those requirements. However, this narrowly focused memo did not constitute a comprehensive systemwide NAGPRA policy for all campuses to follow in their repatriation activity in general. After distributing this memo, the Chancellor's Office hired a systemwide CalNAGPRA project manager at the beginning of June 2022 to assist campuses in their efforts to comply with CalNAGPRA, such as by serving as a liaison for CalNAGPRA inquiries in collaboration with various campus representatives. To annually fund and support this position, the Chancellor's Office has set aside nearly $240,000, which includes the salary and benefits for the position, administrative support costs, and operating expenses, such as travel.

Figure 2
The Chancellor's Office Has Done Little to Ensure Campuses' Return of Remains and Cultural Items to Tribes

- Federal law required campuses to have inventoried their remains and certain cultural items.

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- Collection sizes at some campuses are still very large.
- Many campuses have not completely reviewed their collections, and some have not followed repatriation and consultation requirements.

Past inaction by the Chancellor's Office in **two key areas** has contributed to these problems ...

Guidance and Oversight

- Has not yet finalized a systemwide NAGPRA policy.
- Does not require campus reporting of NAGPRA activity or have a committee to review this activity.
- Has not ensured appropriate staffing at campuses to prioritize repatriation.

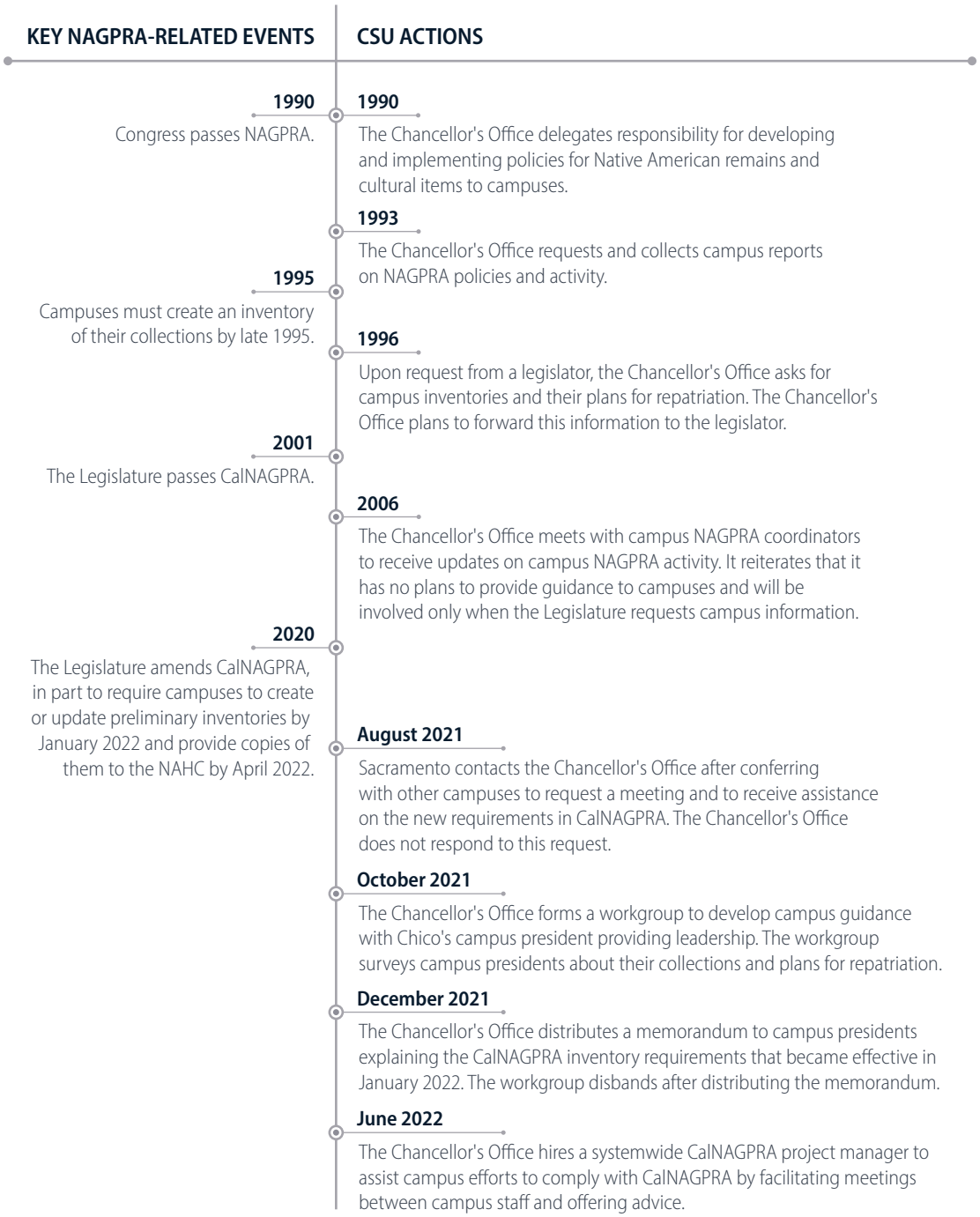
Financial Support

- Has not requested that campuses estimate their funding needs for implementing NAGPRA and CalNAGPRA.
- Has not ensured campuses prioritize funding for NAGPRA.
- Has not provided dedicated funding to campuses for NAGPRA .

Without the Chancellor's Office's leadership and guidance, the CSU system risks continuing to not repatriate its NAGPRA collections in a timely and respectful fashion.

Source: Federal law, interviews with the Chancellor's Office, and our survey of CSU campuses.

Figure 3
The Chancellor's Office Has Only Recently Begun to Provide Some Limited Guidance to Campuses


KEY NAGPRA-RELATED EVENTS
CSU ACTIONS
1990
Congress passes NAGPRA.
1990
The Chancellor's Office delegates responsibility for developing and implementing policies for Native American remains and cultural items to campuses.
1993
The Chancellor's Office requests and collects campus reports on NAGPRA policies and activity.
1995
Campuses must create an inventory of their collections by late 1995.
1996
Upon request from a legislator, the Chancellor's Office asks for campus inventories and their plans for repatriation. The Chancellor's Office plans to forward this information to the legislator.
2001
The Legislature passes CalNAGPRA.
2006
The Chancellor's Office meets with campus NAGPRA coordinators to receive updates on campus NAGPRA activity. It reiterates that it has no plans to provide guidance to campuses and will be involved only when the Legislature requests campus information.
2020
The Legislature amends CalNAGPRA, in part to require campuses to create or update preliminary inventories by January 2022 and provide copies of them to the NAHC by April 2022.
August 2021
Sacramento contacts the Chancellor's Office after conferring with other campuses to request a meeting and to receive assistance on the new requirements in CalNAGPRA. The Chancellor's Office does not respond to this request.
October 2021
The Chancellor's Office forms a workgroup to develop campus guidance with Chico's campus president providing leadership. The workgroup surveys campus presidents about their collections and plans for repatriation.
December 2021
The Chancellor's Office distributes a memorandum to campus presidents explaining the CalNAGPRA inventory requirements that became effective in January 2022. The workgroup disbands after distributing the memorandum.
June 2022
The Chancellor's Office hires a systemwide CalNAGPRA project manager to assist campus efforts to comply with CalNAGPRA by facilitating meetings between campus staff and offering advice.

Source: Federal and state law and documentation provided by campuses and the Chancellor's Office.

Despite having established a CalNAGPRA project manager position, the Chancellor's Office has not established any mechanisms to effectively guide and oversee campuses' repatriation activity. For example, the Chancellor's Office has not issued any policies to provide direction to campuses on the requirements to post notices in the *Federal Register* before proceeding with repatriation. It also has not provided timely guidance to campuses on how to comply with CalNAGPRA's inventory requirements: it distributed its December 2021 memo to campuses less than one month before campuses were required to complete their inventories. In addition, the Chancellor's Office has not implemented any oversight activities, such as requiring campuses to regularly report their progress on repatriation or requiring campuses to establish oversight committees with representatives from tribes. The Chancellor's Office lacks any processes for ensuring that campuses allocate the staffing needed to successfully implement NAGPRA and complete repatriation of their collections in a timely manner. Until the Chancellor's Office consistently demonstrates the leadership necessary in these areas, the CSU system risks continuing its current trajectory of campuses not always complying with the law and delaying the return of remains and cultural items to tribes.

The Chancellor's Office has taken little action to ensure that campuses have prioritized providing adequate funding to repatriate their collections. It also has not provided dedicated funding to campuses for NAGPRA efforts, even when campuses have asked for it. For example, in 2006 the Chancellor's Office met with officials representing the majority of its 23 campuses to obtain information regarding the status of campuses' NAGPRA compliance and their preparation for compliance with CalNAGPRA. In that meeting, two campuses asked whether the Chancellor's Office would be willing to provide some funding, without specifying specific amounts, to help support campuses' repatriation activity. However, the Chancellor's Office responded at that time that each campus had responsibility for compliance with NAGPRA and CalNAGPRA.

The Chancellor's Office believes that campuses may not have sufficient resources to increase their NAGPRA funding, but it has done little to facilitate the identification of additional resources. When we discussed the current funding situation for NAGPRA with the Chancellor's Office, staff stated that campuses have had to rely on existing resources to comply with NAGPRA despite numerous competing budget needs. Providing funding for NAGPRA directly may be difficult for the Chancellor's Office, given that the Legislature apportions only 3 percent of the CSU's systemwide funding to it. In lieu of providing NAGPRA funding to campuses directly, the Chancellor's Office could have provided oversight and guidance by ensuring that campuses reasonably estimate their funding needs and prioritize their existing funding to properly meet their responsibilities under NAGPRA and CalNAGPRA. However, the Chancellor's Office was unable to demonstrate whether it has ever requested that campuses prioritize funding for repatriation or estimate their funding needs for implementing NAGPRA and CalNAGPRA.

The Chancellor's Office explained that because of changes in its staffing and leadership, it has limited information regarding previous administrations' decisions about the Chancellor's Office's role in ensuring NAGPRA compliance. As the Chancellor's Office has taken steps to become more involved with NAGPRA

issues after amendments to CalNAGPRA became effective in 2021, it has begun some limited efforts to provide resources for campus repatriation activity, such as establishing the systemwide CalNAGPRA program manager, but it has noted challenges. Specifically, the Chancellor's Office fiscal year 2022–23 budget allocates about 90 percent of the CSU system's total gross operating budget of $7.7 billion to the campuses, while the Chancellor's Office receives approximately 3 percent, or nearly $200 million, of this funding. The Chancellor's Office told us that the fiscal year 2022–23 budget allocation does not include a dedicated funding source for campuses to use for NAGPRA implementation; instead, campuses have had to rely on existing resources to support their repatriation activities while balancing competing budget needs, including providing student support to close equity gaps and increasing employee compensation. Drawing on responses we received from some campuses regarding their actual and estimated costs for complying with NAGPRA and CalNAGPRA, we conservatively estimate that campuses would require at least an additional $250,000 in annual funding, although the exact amount would vary significantly with each campus's collection size. The Chancellor's Office acknowledged that as the CSU system moves beyond the planning stage and toward ongoing systemwide repatriation efforts, additional funding will be imperative to ensure timely, meaningful, and careful repatriation.

Although the Chancellor's Office acknowledges that campuses have struggled to identify funding and resources to support their repatriation activity, it maintains that campuses are best positioned to determine the staffing and resources needed for this activity. The Chancellor's Office told us that it has provided campuses with a draft repatriation plan template to help them determine their NAGPRA status and funding needs and that the completed plans will inform discussions about how best to fund campus repatriation efforts. It acknowledged that this funding could include sources such as the CSU's designated reserves and campus reserves. Because individual campuses are the sources most knowledgeable about the amount of funding they will need to ensure compliance with NAGPRA and CalNAGPRA requirements, we agree that the Chancellor's Office should require campuses to identify their funding needs. The Chancellor's Office can then use this information to ensure that campuses fund NAGPRA and CalNAGPRA, either by providing that funding directly or by requiring campuses to use their existing funding to complete repatriation and address the needs of tribes.

The Chancellor's Office Has Not Issued a Systemwide Policy to Guide Campus Repatriation Activity

Although the chancellor serves as the CSU's chief executive officer—and is therefore responsible for ensuring the successful implementation of the CSU's academic and administrative functions—the Chancellor's Office has not issued a systemwide policy to ensure that campuses adequately comply with NAGPRA and CalNAGPRA. The Standing Orders of the Board of Trustees delegate authority from the Board of Trustees to the chancellor for the appropriate functioning of the CSU system. As the headquarters for the CSU's 23 campuses, the Chancellor's Office has the unique capability to coordinate and standardize systemwide NAGPRA practices. In fact, it provides this type of guidance to campuses by establishing systemwide policies

in areas such as academic and student affairs, business and finance, and human resources. Therefore, we expected the Chancellor's Office to have also developed a systemwide policy regarding compliance with NAGPRA and CalNAGPRA to help ensure that campuses have the guidance necessary to appropriately and consistently follow applicable requirements and work to advance repatriation. However, we found that the Chancellor's Office has not done so.[8]

In recognition of pervasive problems related to the UC system's repatriation of its collections, the Legislature amended CalNAGPRA in 2018 in part to require the UC to establish a systemwide policy regarding the culturally appropriate treatment of Native American remains and cultural items. Specifically, the author of the bill amending CalNAGPRA in 2018 stated that "even though there is both a federal and state law governing the return of human remains and cultural items, the application of these statutes has been inconsistent at best, which has failed to ensure the UC system's compliance with NAGPRA." The author further explained that "California tribal governments were finding there are no systemwide standards and best practices in place for compliance with NAGPRA, resulting in widely disparate application of the law among campuses and museums." Since the passage of the 2018 amendment to CalNAGPRA, the UC system has established a systemwide policy that has helped to standardize practices and promote consistency across the UC system, including in areas on which some California tribes provided feedback to the UC, such as processes for ensuring the respectful treatment of human remains. The UC process could serve as a potential model for the CSU Chancellor's Office. Using lessons learned from that process could enable the Chancellor's Office to better establish and implement a systemwide policy, train relevant staff on the policy's requirements, and ultimately provide consistency in NAGPRA practices within its system.

Tribes we interviewed described their differing experiences with the campuses and with the Chancellor's Office. For example, one tribe explained that campuses use different methods when counting items in their collections, so there is no clear way to measure the progress of repatriation in the system because each campus calculates its collection size differently. Other tribes described some campuses' not agreeing as readily to their handling preferences as other campuses did. One tribe stated that it believed a systemwide policy across the entire CSU system would be helpful in ensuring consistency for tribes working with multiple campuses. Having consistent processes across the CSU campuses for consultation, managing collections, and other aspects of repatriation would facilitate tribal engagement with campuses regarding repatriation.

The Chancellor's Office acknowledged the importance of a systemwide policy and explained that it plans to develop and formalize one. In February 2023, the Chancellor's Office provided us with what it referred to as a high-level statement of the CSU's core values and standards to comply with both the letter and spirit of the law. Although the Chancellor's Office has not established a deadline for completing

[8] The Joint Legislative Audit Committee asked us to review the CSU's systemwide policy in four particular areas: storage and inventory management, resolution of disputes, social media use, and transparency of its repatriation process. However, we found that the Chancellor's Office had historically delegated the responsibility for creating policies to the individual campuses and did not have a systemwide policy for us to review.

its systemwide policy governing compliance with NAGPRA and CalNAGPRA, it explained that it wants to capture the perspectives of California tribes and the NAHC and ensure that these perspectives are reflected in the finalized policy and that it is forming a committee to meet these goals. We find this approach reasonable because deadlines can limit tribes' ability to provide feedback and the CSU's ability to fully consider that feedback. However, the Chancellor's Office said that it is waiting until the appointment of a new chancellor—which it anticipates occurring in July 2023—before it forms this committee and begins work on finalizing the policy.

The Chancellor's Office Lacks a Sufficient Administrative Structure for Overseeing Campus Repatriation Activity

In addition to a comprehensive systemwide policy, the CSU also requires a strong structure within the Chancellor's Office to guide and oversee campuses' repatriation activity. An effective oversight structure includes having dedicated executives and staff in the Chancellor's Office directing and providing guidance to campuses on NAGPRA compliance. It also includes mechanisms, such as a systemwide NAGPRA committee and regular campus reporting, for overseeing campuses' progress in repatriating their collections to tribes. Establishing such a structure will strengthen the CSU's administration and oversight of campus repatriation activity and will better demonstrate its commitment to prioritizing timely repatriation.

However, instead of having dedicated leadership and staff within the Chancellor's Office to oversee and guide campuses' repatriation activity, the Chancellor's Office currently relies on Chico's president and the executive vice chancellor of academic and student affairs (executive vice chancellor) to lead systemwide NAGPRA efforts. The Chancellor's Office told us that in October 2021, Chico's president volunteered to help lead systemwide efforts related to NAGPRA compliance because of her efforts on Native American issues, including CalNAGPRA. In March 2022, the interim chancellor requested that the executive vice chancellor support NAGPRA and CalNAGPRA efforts alongside Chico's president. In the beginning of June 2022, the Chancellor's Office hired its systemwide CalNAGPRA project manager, who reports—at least for the first three years of her employment—directly to Chico's president regarding the work she performs to assist campuses with collections subject to CalNAGPRA. The Chancellor's Office said that its executive vice chancellor and Chico's president serve as the systemwide CalNAGPRA project manager's connection to the interim chancellor and to the other CSU campus presidents.[9]

Some campuses have expressed concern about the lack of administrative support offered by the Chancellor's Office, and the future of its current administrative structure is uncertain. The executive vice chancellor told us that addressing systemwide NAGPRA issues is an additional responsibility for her position, which is responsible for providing leadership and strategic direction on issues relating to academic and student policies and programs across the CSU system. She explained that, as a result, the Chancellor's Office currently relies on Chico's president and

9 Chico also has a campus NAGPRA coordinator for that campus's repatriation activity.

its CalNAGPRA project manager to respond to questions about repatriation that campuses may have and to coordinate regular meetings with campus NAGPRA staff. However, some campuses reported to us that the oversight provided by the Chancellor's Office's current administrative structure has been insufficient and that it needs additional staffing going forward. Some campuses explained that they would appreciate more legal expertise to assist and provide guidance to them and that the Chancellor's Office should provide more staffing for this purpose. Of further concern, both Chico's president and the executive vice chancellor plan to leave their current positions soon: Chico's president will retire at the end of June 2023, and the executive vice chancellor will leave her position in August 2023.

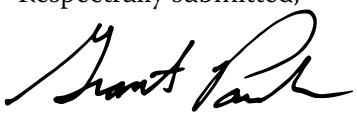
In addition to lacking a strong administrative structure, the Chancellor's Office currently has no mechanisms for overseeing campuses' repatriation activity. A key mechanism the Chancellor's Office can implement is the establishment of a systemwide NAGPRA oversight committee that includes representatives who are tribal members. The Legislature identified the importance of having this type of tribal perspective on the UC's systemwide NAGPRA committee when it required the UC to ensure that the committee's voting membership included tribal members. Further, having a systemwide NAGPRA committee that oversees campus repatriation activity is a best practice to help the Chancellor's Office monitor campus progress toward repatriation and increase tribal input. In fact, in our June 2020 audit of the UC's compliance with NAGPRA, we recommended that the UC Office of the President require campuses to provide biannual reports about their repatriation activity to the systemwide NAGPRA committee, a policy that the UC has now implemented.[10] A systemwide NAGPRA committee that reviews periodic campus reports on their repatriation activity is an important mechanism to ensure effective oversight of campus repatriation activity that would assist the CSU system in advancing repatriation.

The Chancellor's Office has started planning to establish a systemwide committee. The Chancellor's Office told us that beginning in September 2022, it met with the NAHC on two occasions to discuss the process for selecting committee members for a systemwide NAGPRA committee after it hired the systemwide CalNAGPRA project manager. However, the Chancellor's Office is waiting for the CSU system trustees to appoint the new chancellor before restructuring its approach to assisting campuses with their repatriations efforts and overseeing their repatriation activity. The Chancellor's Office explained that this approach will include determining an administrative body to inform NAGPRA-related policy and implementation decisions. Until the Chancellor's Office has a permanent administrative and oversight structure that prioritizes completing repatriation, campuses are likely to lack clear direction on how they should appropriately implement NAGPRA and CalNAGPRA and work to return remains and cultural items to tribes.

10 *Native American Graves Protection and Repatriation Act: The University of California Is Not Adequately Overseeing Its Return of Native American Remains and Artifacts*, Report 2019-047, June 2020.

We conducted this performance audit in accordance with generally accepted government auditing standards and under the authority vested in the California State Auditor by Government Code sections 8543 et seq. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



GRANT PARKS
California State Auditor

June 29, 2023

Staff:	Laura Kearney, Audit Principal Jim Adams, MPP Grayson Hough Roxanna Jarvis Myra Farooqi
Legal Counsel:	Heather Kendrick Katie Mola

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Appendix A

CAMPUS SURVEY RESPONSES

The Joint Legislative Audit Committee (Audit Committee) directed our office to conduct a survey of the 23 CSU campuses to determine the remains and cultural items currently in their possession as well as the remains and artifacts that they have repatriated since 1990. The Audit Committee also directed our office to determine when remains and cultural items were repatriated, where they were repatriated, and to whom they were repatriated. We included additional questions in our survey about campuses' responses to requirements in NAGPRA and CalNAGPRA and their management of their collections. Table A1 provides a summary of the responses to our March 2023 survey.[11]

Table A1
Summary of Responses to Survey of 23 CSU Campuses

QUESTIONS	SUMMARY OF RESPONSES	
Collection Sizes		
The approximate total number of Native American human remains in CSU campuses' collections	5,800 Native American remains*	
The approximate total number of Native American cultural items in CSU campuses' collections	692,400 cultural items*	
Collection Reviews		
Has the campus finished reviewing all Native American human remains and cultural items potentially in its possession?	**YES**	**NO**
	11	12
Why has the campus not finished reviewing its collections?†	Examples include: • Not committing resources like staff and funding in the past to record information about the collections. • Lack of documentation. • Data errors and need to update records. • Tribal requests to stop work on collections.	
When does the campus expect to complete its review?†	Examples include: • By end of 2023. • End of 2024. • April 2023. • Several are unable to determine an end date.	

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11 Maritime and San Marcos reported that they do not have any collections of Native American remains or cultural items. We include their responses in the appendix where applicable.

QUESTIONS	SUMMARY OF RESPONSES		
Repatriation Activity			
Has the campus repatriated any Native American human remains or cultural items since 1990?	**YES**	**NO**	
	9	14	
Reasons why campuses have not completed repatriations or are unsure†	Examples include: • Lack of records associated with possible past repatriations. • Faculty responsible for collections are no longer employed by the campus. • Collections are not subject to NAGPRA or are only subject to CalNAGPRA.		
Guidance From Chancellor's Office			
Have you received any formal or informal guidance from the CSU Office of the Chancellor about compliance with NAGPRA and CalNAGPRA?	**YES**	**NO**	
	20	3	
Guidance campuses reported receiving from the Chancellor's Office†	Examples include: • Chancellor's Office memo to campus presidents in December 2021. • Meetings with the CSU CalNAGPRA project manager to discuss concerns and issues. • Campus visits by the CSU CalNAGPRA project manager.		
Do you find that the guidance the CSU Office of the Chancellor provides regarding NAGPRA and CalNAGPRA is adequate to meet the campus's needs?	**YES**	**SOMETIMES/ PARTIALLY**	**NO**
	8	7	5
Please provide details on how the Office of the Chancellor could improve the guidance it provides.†	Examples include: • Systemwide policies. • Access to subject matter experts and legal guidance and trainings. • Funding for staff, space, and management of collections. • Communication with the NAHC on behalf of campuses.		
Campus NAGPRA/CalNAGPRA Oversight (for campuses with collections)			
	YES	**NO**	
Does the campus have a designated NAGPRA Coordinator?	19	2	
Does the campus have a committee that oversees NAGPRA processes?	11	10	
Does the campus currently have a formalized policy or policies regarding compliance with NAGPRA?‡	3	18	

QUESTIONS	SUMMARY OF RESPONSES	
	YES	NO
Does the campus believe it has sufficient funding to support its responsibilities under NAGPRA and CalNAGPRA?	11	10

Source: Campus responses to survey and survey follow-up interviews.

Note: Not all survey questions are included in this summary, and where needed for brevity, the auditor summarized campus responses for this table.

* Auditor calculated this estimated total using responses from the campuses, which may or may not use the same methods in calculating their respective collection sizes. Additionally, due to rounding, the estimated total presented in this table differs slightly from the estimated size of the CSU's collections reported in Figure 1.

† Only those campuses whose responses to the prior question required follow-up are included in summary of responses to this question.

‡ Chico, San Diego, and San José have some finalized NAGPRA-related policies, but as we note in the report, these policies are not comprehensive. We therefore include them as *no* in this table.

In Table A1, we have aggregated the campus responses to facilitate review of the CSU system's current status implementing NAGPRA and CalNAGPRA. However, we also provide individual campus responses to nine key questions in our survey in Table A2. Specifically, we obtained the collection sizes of Native American remains and cultural items in the legal control of each campus, as well as information about their oversight of NAGPRA and CalNAGPRA. For example, we asked whether campuses have any committees that oversee NAGPRA activity or a position responsible for NAGPRA and CalNAGPRA coordination, which many do have.

Table A2
Summary of Campus Responses to Selected CSU NAGPRA Compliance Audit Survey Questions

CAMPUS	REMAINS (IN CAMPUS COLLECTION)	CULTURAL ITEMS (IN CAMPUS COLLECTION)	HAS COMPLETED REVIEW OF COLLECTIONS	HAS COMPLETED ANY REPATRIATIONS	HAS REPATRIATION COORDINATOR	HAS NAGPRA COMMITTEE	COMMITTEE HAS INDEPENDENT TRIBAL MEMBERS	HAS NAGPRA POLICY	HAS SUFFICIENT FUNDING
Bakersfield*	8	unknown	N	N	Y	Y	N	N	N
Channel Islands	0	1,800	N	Y	Y	N	N/A	N	N
Chico	2,612	147,500	Y	N	Y	Y	N	N†	N
Dominguez Hills	8	2,200	Y	Y	Y	N	N/A	Y	N
East Bay	98	13,400	N	N	Y	N	N/A	N	Y
Fresno	5	38,700	Y	N	Y	N	N/A	N	Y
Fullerton	173	8,200	Y	Y	Y	Y	Y	N	N
Humboldt	0	21,900	Y	N	Y	N	N/A	N	Y
Long Beach	149	2,600	N	Y	Y	Y	Y	Y	Y
Los Angeles*	6	unknown	N	N	Y	N	N/A	Y	Y
Maritime	0	0	Y	N	N/A	N/A	N/A	N/A	N/A
Monterey Bay*	unknown	unknown	N	N	Y	N	N/A	N	Y

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CAMPUS	REMAINS (IN CAMPUS COLLECTION)	CULTURAL ITEMS (IN CAMPUS COLLECTION)	HAS COMPLETED REVIEW OF COLLECTIONS	HAS COMPLETED ANY REPATRIATIONS	HAS REPATRIATION COORDINATOR	HAS NAGPRA COMMITTEE	COMMITTEE HAS INDEPENDENT TRIBAL MEMBERS	HAS NAGPRA POLICY	HAS SUFFICIENT FUNDING
Northridge	58	30,000	N	N	Y	Y	N	N	Y
Pomona	0	100	Y	N	Y	Y	N	N	Y
Sacramento	1,484	114,400	N	Y	Y	Y	Y	N	Y
San Bernardino	0	1,100	N	N	Y	Y	N	N	N
San Diego	100	90,000	Y	Y	Y	N	N/A	N†	N
San Francisco	257	30,400	N	Y	Y	Y	N	N	N
San José	494	5,000	Y	Y	Y	N	N/A	N†	N
San Luis Obispo	8	0	Y	N	Y	N	N/A	N	Y
San Marcos	0	0	Y	N	N/A	N/A	N/A	N/A	N/A
Sonoma	320	185,000	N	Y	N	Y	N	N	N
Stanislaus*	24	unknown	N	N	Y	Y	Y	N	Y
Totals	**5,804**	**692,400‡**							

Source: Campus responses to CSA survey, survey follow-up interviews, and auditor assessment.

Note: As part of the survey, we asked campuses to report their collection sizes, and several campuses provided estimates, not precise counts. Further, the campuses do not always calculate their collection sizes using the same methods.

* These campuses have not yet performed the work needed to provide an estimate of the size of their NAGPRA collections. However, all four campuses reported human remains in their collections and reported having more than one hundred boxes that they still need to review.

† Chico, San Diego, and San José have finalized some NAGPRA-related policies, but as we note in the report, these policies are not comprehensive. We therefore include them as *N* in this table.

‡ Because we round cultural items to the nearest 100 for those campuses which reported more than 100 cultural items, the estimated total presented in this table differs slightly from the estimated size of the CSU's collections reported in Figure 1.

Finally, we include a table of the repatriation and return activity that campuses reported to us in the survey. Table A3 provides a summary of the response from each campus, including those that reported they had not repatriated remains or cultural items to tribes. To verify the campus responses we present in this table, we evaluated the responses of the four campuses we visited and others that responded to our survey with other information, including our testing of their repatriation claims, campus interviews, and the *Federal Register.*

Table A3
Repatriations and Returns of Native American Human Remains and Cultural Items by CSU Campuses

CAMPUS	REMAINS	CULTURAL ITEMS	MONTH	YEAR	RECEIVING TRIBE	CALIFORNIA COUNTY OR OTHER LOCATION
Bakersfield	No repatriations					
Channel Islands	25	0	December	2021	Chumash	Ventura
Chico	3	0	Unknown	2014	Traditional Village of Togiak	Alaska
Dominguez Hills	1	0	Unknown	2004	San Manuel Band of Serrano Mission Indians of the San Manuel Reservation	San Bernardino
East Bay	No repatriations					
Fresno	No repatriations					
Fullerton	16	0	October	1996	The Office of Hawaiian Affairs Historic Preservation Office, Hui Mālama I Nā Kūpuna ʻO Hawaiʻi Nei and the Maui/ Lanaʻi Islands Burial Council	Hawaii
Humboldt	No repatriations					
Long Beach	15	42	September	2014	Santa Rosa Rancheria Tachi Yokut Tribe	San Joaquin
	240	1,876	April	2005	Santa Rosa Rancheria Tachi Yokut Tribe	San Joaquin
	20	4,141	September	2002	Pechanga Band of Luiseño Mission Indians	Riverside
Los Angeles	No repatriations					
Maritime	Campus has no collections and no past repatriations					
Monterey Bay	7	0	April	2022	Esselen Tribe of the Monterey Bay	Monterey
Northridge	No repatriations					
Pomona	No repatriations					
Sacramento	7	0	June	2022	Yocha Dehe Wintun Nation	Yolo
	0	821	April	2022	Shingle Springs Band of Miwok Indians	Sacramento
	219	268	March	2022	Ione Band of Miwok Indians and Wilton Rancheria	Sacramento
	15	241	March	2015	Ione Band of Miwok Indians	San Joaquin
	123	3,978	April	2011	Shingle Springs Band of Miwok Indians	Sacramento
	8	0	April	2006	Pit River Tribe	Shasta
San Bernardino	No repatriations					
San Diego	0	39	October	2012	Santa Rosa Rancheria Tachi Yokut Tribe	Madera
	0	2	August	2012	Tohono O'odham Nation of Arizona	Arizona
	1	0	August	2012	Gila River Indian Community of the Gila River Indian Reservation	Arizona
	2	92	July	2012	Santa Rosa Rancheria Tachi Yokut Tribe	Madera
	2	57	September	2010	Kumeyaay	San Diego
	1	0	August	2010	Kumeyaay	San Diego
	2	264	February	2003	Kumeyaay	San Diego
	14	18,000	September	2001	Kumeyaay, Luiseño	San Diego
	10	3,000	November	2000	Kumeyaay	San Diego
	2	0	November	2000	Kumeyaay	Imperial

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CAMPUS	REMAINS	CULTURAL ITEMS	MONTH	YEAR	RECEIVING TRIBE	CALIFORNIA COUNTY OR OTHER LOCATION
San Francisco	0	15	February	2023	Wilton Rancheria	Sacramento
	0	2	February	2023	Yocha Dehe Wintun Nation	Yolo
	0	1	July	2021	Federated Indians of Graton Rancheria	Sonoma
	1	11	August	2017	Round Valley Reservation/Covelo Indian Community	Mendocino
	1	0	November	2015	Santa Rosa Indian Community	Kings
	10	130	November	2014	Santa Rosa Indian Community	Kings
	1	19	June	2013	Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California	Tuolumne
	0	2	April	2013	Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California	Tuolumne
	8	2,065	January	2013	Redding Rancheria	Shasta
	66	655	October	2012	Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California	Tuolumne
	2	12	September	2012	United Auburn Indian Community of Auburn Rancheria	Placer
	0	7,096	March	2012	Federated Indians of Graton Rancheria	Sonoma
	123	2,336	February	2012	Federated Indians of Graton Rancheria	Sonoma
	0	1	May	2009	Santa Rosa Rancheria	Kings
	1	123	February	2002	Santa Rosa Rancheria	Kings
	80	1,690	August	2001	Federated Coast Miwok/Federated Indians of Graton	Sonoma
	12	6	August	2001	Dry Creek Rancheria Band of Pomo Indians	Sonoma
	0	8	June	2001	Dry Creek Rancheria Band of Pomo Indians	Sonoma
	7	31	December	2000	Federated Coast Miwok/Federated Indians of Graton	Sonoma
	1	11	December	2000	Round Valley Indian Tribes of the Round Valley Reservation	Mendocino
San José	2	2	March	2020	Central Valley Yokuts NAGPRA Coalition	Kings
San Luis Obispo	No repatriations					
San Marcos	Campus has no collections and no past repatriations					
Sonoma	162	293	May	2021	Federated Indians of Graton Rancheria	Sonoma
Stanislaus	No repatriations					

Source: CSU campus responses to CSA survey and select auditor verification.

Notes: Auditor defined completed repatriation by date for the purposes of this appendix. If a campus repatriated two different collections to the same tribe in the same month and year, then the auditor defined that as one completed repatriation.

As indicated in the source, the campuses self-reported the data in the table. To verify the campus responses we present in this table, we compared the responses of the four campuses we visited and other campuses that we surveyed with other information, including from our testing of their repatriation claims, campus interviews, and the *Federal Register*.

Appendix B

SCOPE AND METHODOLOGY

The Audit Committee directed the California State Auditor to conduct an audit of the CSU system's compliance with both NAGPRA and CalNAGPRA. Specifically, we were asked to evaluate the Chancellor's Office's oversight activities, including any efforts to implement NAGPRA oversight committees; to survey all CSU campuses to determine what remains and cultural items they have in their collections and have repatriated; to review the CSU's systemwide and selected campuses' policies and procedures; and to evaluate how the selected campuses have engaged with the NAHC and tribes. Table B lists the objectives that the Audit Committee approved and the methods we used to address them.

Table B
Audit Objectives and the Methods Used to Address Them

	AUDIT OBJECTIVE	METHOD
1	Review and evaluate the laws, rules, and regulations significant to the audit objectives.	Reviewed relevant state and federal laws, rules, and regulations related to NAGPRA and CalNAGPRA.
2	Evaluate the oversight activities related to NAGPRA and CalNAGPRA performed by the CSU Office of the Chancellor, including, but not limited to any policies, practices, and efforts to implement NAGPRA oversight committees.	• Interviewed Chancellor's Office staff and individuals responsible for NAGPRA and CalNAGPRA to determine what oversight it has in place and its plans to establish greater oversight, including NAGPRA oversight committees. • Reviewed and evaluated any guidance, draft policies, and plans the Chancellor's Office has developed to exercise its oversight role.
3	Survey all CSU campuses to determine what remains and artifacts are in their possession and the remains and artifacts that they have repatriated since 1990. To the extent possible, also determine when remains and artifacts were repatriated, where they were repatriated, and to whom they were repatriated.	• Developed and distributed a survey to all 23 CSU campuses to determine, among other things, what remains and artifacts are in their possession and their repatriation activities. • Analyzed survey responses to identify the status of campus and systemwide NAGPRA and CalNAGPRA compliance, and followed up with campuses as necessary. • Interviewed staff at the campuses and the Chancellor's Office to follow up on incomplete responses, including answers related to campus funding and collection sizes.

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AUDIT OBJECTIVE	METHOD
4 For a selection of four CSU campuses, including Chico and San José, determine whether the campuses have complied with key provisions of NAGPRA and CalNAGPRA, including provisions governing the repatriation process. Determine reasons for any delays in the repatriation process.	• In addition to Chico and San José, selected Sacramento and San Diego for review. We selected these campuses based on their collection size reported to the NAHC and feedback we received from tribes and the NAHC. • Selected and reviewed a total of nine repatriation claims at Sacramento, San Diego, and San José, and reviewed campus responses to the claims to determine whether the campuses have complied with provisions in NAGPRA and CalNAGPRA governing the repatriation process, as well as reasons for any delays in the repatriation process. We did not select any claims at Chico, as the campus's one return was outside of the process required by NAGPRA, which is an issue we describe further in Chapter 1 of this report. • Evaluated NAHC records to determine whether the selected campuses reported their inventory to the NAHC as required by CalNAGPRA. • Interviewed staff and tribes and reviewed documentation to assess whether these campuses appropriately consulted with tribes during the CalNAGPRA inventory process. • Interviewed staff at Humboldt and Northridge and reviewed documentation to determine why these two campuses have no reported repatriation activity, despite having sizeable NAGPRA collections. • Evaluated NAHC records and interviewed staff at Fresno, Fullerton, Los Angeles, and Monterey Bay to determine why these campuses did not submit inventories to the NAHC as required by CalNAGPRA.
5 Review and evaluate the CSU's systemwide and selected campus policies and procedures related to the following: a. Storage and inventory management of Native American remains and artifacts, including any policies related to handling remains or artifacts. b. Addressing disputes between tribes and campuses. c. Social media use and misuse. d. The transparency of its repatriation processes.	• Interviewed staff at the Chancellor's Office and reviewed documentation to determine why the Chancellor's Office has not issued systemwide policies and procedures for NAGPRA and CalNAGPRA. • Identified best practices associated with the four areas described in the objective. • Evaluated the four selected campuses' policies and procedures, some of which were in draft or interim form, against those best practices. • Compared campus policies to identify additional best practices.
6 Review whether the selected campuses have tribal representation that actively participates on the committees or bodies that develop and monitor campus NAGPRA and CalNAGPRA policies and staff training.	• Interviewed staff at the four selected campuses to determine if they have NAGPRA oversight and advisory committees. • For the campuses with committees, identified their duties and determined whether they have independent tribal representation. • If the campus did not have a NAGPRA committee, interviewed staff to determine why not.
7 Evaluate how each selected campus engages with the California Native American Heritage Commission and California Native American tribal governments.	• Interviewed staff and reviewed documentation at the four selected campuses to determine their processes for consulting with California tribes and communicating with the NAHC. • Evaluated documentation to determine whether campuses complied with consultation requirements in CalNAGPRA.

	AUDIT OBJECTIVE	METHOD
8	To the extent possible, obtain the perspective of tribal representatives who participate on CSU systemwide or campus committees, or other tribal representatives if committees do not exist, about the responsiveness of the CSU Office of the Chancellor and campuses to any concerns they have raised and the timeliness of those responses.	• Interviewed the NAHC and seven tribes from across California about their interactions with the CSU system. • Tribes often reported limited interactions with the Chancellor's Office, but some noted having professional working relationships with the CSU campuses. • When tribes raise concerns, campuses generally address them, although the time frame for doing so may vary. • We present tribal perspective where relevant throughout this report.
9	Review and assess any other issues that are significant to the audit.	None identified.

Source: Audit workpapers.

Assessment of Data Reliability

The U.S. Government Accountability Office, whose standards we are statutorily required to follow, requires us to assess the sufficiency and appropriateness of computer-processed information that we use to support findings, conclusions, and recommendations. In performing this audit, we relied on data provided by the campuses we reviewed to understand the campuses' NAGPRA collections. To evaluate these data, we performed logic testing of the data and attempted to test the accuracy and completeness of the data.[12]

In performing this audit, we relied on data provided by the campuses as part of their responses to our survey. To evaluate the self-reported data on completed repatriations, we reviewed selected campus responses and tested their accuracy. To do so, we compared a selection of campus responses to the repatriation claims we tested for Objective 4 in Table B. For any discrepancies we identified, we followed up with the campus to clarify the information they reported. Because of the varying accuracy of campus repatriation activity, this information is also of undetermined reliability. However, because these data represent the only source for this information, we present a breakdown of the campus responses in Appendix A. Although the problems we identified with the overall data may affect the precision of some of the numbers we present, there is sufficient evidence in total to support our findings, conclusions, and recommendations.

[12] To be respectful of tribal concerns about disturbance of their ancestors, we did not view remains or cultural items as part of these activities. Instead, we verified storage and location information and compared data to physical museum records when available.

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THE CALIFORNIA STATE UNIVERSITY

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SAN MARCOS
SONOMA
STANISLAUS

June 8, 2023

Mr. Grant Parks
State Auditor
California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, California 95814

Dear Mr. Parks:

Thank you for the opportunity to review and respond to the draft audit report on the Native American Graves Protection and Repatriation Act (NAGPRA).

Based on the audit report findings, the Chancellor's Office and the 23 campuses will continue to develop a more centralized and systemwide approach to all CSU NAGPRA/CalNAGPRA efforts in order to advance the repatriation of ancestral remains and cultural artifacts through meaningful Tribal consultation.

The CSU intends to implement each recommendation made by your office as reflected in this audit report. Additionally, the Chancellor's Office will finalize and implement a systemwide NAGPRA/CalNAGPRA policy, which includes appropriate oversight, that will be vetted through Tribal consultation, require annual campus reporting of NAGPRA/CalNAGPRA activity and progress, and ensure adequate funding and resources for NAGPRA/CalNAGPRA efforts.

On behalf of the CSU, I extend my deepest appreciation to the audit team for their diligence, hard work, inclusive nature, and accuracy in the reporting of its observations and findings.

Sincerely,

Jolene Koester

Jolene Koester
Interim Chancellor

401 GOLDEN SHORE • LONG BEACH, CALIFORNIA 90802-4210 • (562) 951-4700